

409
A
S T A T E
O F
Mr. *PATERSON*'s Claim
U P O N T H E
E Q U I V A L E N T ;

W I T H
Original Papers and Observations
Relating thereto.

L O N D O N :
Printed in the Year M D C C X I I .

2855-8



Donat. Fund. 4/6.
Jan. 7. 1848.

INTRODUCTION.

To the herewith Printed Papers, relating to Mr. Paterson's Claim, he Presumes to give the following brief Deduction of the Case.

AN ACT passed in Scotland, which constituted several Persons therein named, together with such as should joyn with them, in manner, and within the Space of Time therein mentioned, one Body incorporate, by the Name of the Company of Scotland trading to *Africa* and the *Indies*. July 26,
1695.

“ By a Subsequent Clause of the same Act, there
“ is special Power granted to the Persons named in
“ the said Act by Subscriptions or otherwise, as they
“ should think fit, to raise a Joint-Stock, or Capital
“ Fund, of such a Sum, or Sums of Money, *And*
“ subject to such Rules, Conditions and Qualifications,
“ as by them or the major Part of them, when assembled, should be limited or appointed, to begin, carry
“ on, and support their intended Trade and Navigation, &c.

“ By a further Clause of the same Act, the Books,
“ Records, and Registers of the said Company, or
“ Authentick Abstracts, or Extracts, out of the same,
“ are made and declared to be good and sufficient Evidence in any Court of Law; granting likewise
“ to the said Company in general, all Powers, Rights
“ and Privileges, that by the Laws are given to Companies, allowed to be erected, &c.

Novemb. 6.
1695.

The Members in the said Act named, or the major part of them, met at *London* to consider of a Method to carry on the Trade; and at this Meeting they framed, and agreed to certain Rules, Orders and Conditions, bearing Date the sixth Day of *November*, 1695. which they entered in Books for that Purpose, at the Head of their own Subscriptions, as well as the Subscriptions of all others, who would be concerned in the Company's Joint-Stock, taking therein special Notice of the great Services which Mr. *Paterfson* had done for establishing the Company: In consideration whereof, it was thereby specially agreed, in the following Words, *viz.*

* No. 1. In
the Report of
July 23. 1708.
out of the
Company's
Register-
Books.

* " That in regard Mr. *William Paterfson*, and others concerned with him, have been at great Pains and Expence, in making several considerable Discoveries of Trade and Improvements, in and to both the *Indies*, and likewise in procuring needful Powers and Privileges for a Company of Commerce from several Sovereign Princes and States; and for which he and they have Contrived, Suited and Designed the said Company. In Consideration whereof, it is hereby agreed, that the said *William Paterfson*, his Executors, Administrators, or Assigns, shall, out of the first Payment, have and receive Two *per Cent.* of the Money to be Subscribed in the said Capital Fund; As also, Three *per Cent.* of the Issues, Profits and Product of the said Fund, for the space of Twenty one Years; which shall be Redeemable for Two *per Cent.* more of the said Capital Fund, any time in five Years.

Whereto the said Members, or the major part of them, present at that Meeting, and who constituted the Company, did subscribe; and several other Subscriptions were taken at *London*, amounting in the whole to 300000 *l.* Soon

named, or the major part of them, retired with the
 said Books into *Scotland*, and there opened Books
 to take in further Subscriptions, in which there
 was a Subsequent Entry made, Referring to the
 Conditions, Rules and Orders abovemention-
 ed, in these Words: (a) " Pursuant to an Act of (a) No. 2. In
 " Parliament, entituled, An Act for a Company Tra- said Report.
 " ding to *Africa* and the *Indies*, we the Subscribers,
 " do each of us for himself become obliged for the
 " Payment of the respective Sums, severally subscri-
 " bed by us; Subject to the Rules, Conditions and
 " Constitutions of the said Company; And accord-
 " ingly several Subscriptions, amounting to the further
 Sum of 400000 £ were entered there.

February 6.
 1695-6.

By the 15th Article of the Treaty of Union, the
 advanced Stock of the said Company, with Interest at
 five per Cent. was to be paid out of the Equivalent:
 And to this purpose an Act passed in *Scotland*, ap- March 25.
 pointing certain Commissioners to state what was 1707.
 due to the said Company for Principal and Interest.

But Mr. *Paterfon* happening to be then absent out
 of *Scotland*, and the said Commissioners being Stran-
 gers to the foresaid Transactions of the Company,
 Mr. *Paterfon's* Demand was omitted.

Upon this Mr. *Paterfon* apply'd himself to the Parlia-
 ment of Great Britain, who were pleas'd, in an Act
 past in the sixth Year of the Queen, Entituled, An Act
 for the further directing the Payment of the Equi-
 valent Money, to Insert the following Clause, viz.

" AND whereas it appears, that the Accounts April 1st,
 " of the Stock advanced, and Debts due by the 1708.
 " *African* and *Indian* Company in *Scotland*, have
 " been made up without Regard to the Claim of
 " *William*

“ *William Paterson, Esq;* for his Expences, Pains and
“ Losses, on Account, and at the Instance of the
“ said Company; Be it Enacted by the Authority
“ aforesaid, That no Omission or Neglect of the Di-
“ rectors of the said Company, or of others concer-
“ ned in Stating, Adjusting or Certifying the Claims
“ or Demands upon the Equivalent, shall Prejudice
“ the Right, Interest, Claim or Demand of the

(a) By the 15th Article of the Treaty of Union, the Principal Sums due to the Proprietors of the African and Indian Company in Scotland, together with the Interest at Five per Cent. per Annum, are Stipulated to be paid out of the Equivalent, preferable to all other Publick Debts of Scotland.

“ said *William Paterson*, in and up-
“ on the said Company, but that
“ the several Sums due to him by
“ the said Company shall be Cer-
“ tified, and thereupon fully Satis-
“ fied, and Paid in the Terms of
“ the Treaty of Union, (a) as the
“ same shall be Proved before the
“ aforesaid Judges of the Court of
“ Exchequer in *Scotland*.

“ And in regard that since the making of the
“ first Contracts and Agreements, the said *Wil-*
“ *liam Paterson* hath been at further Expences,
“ and sustained other Losses and Damages, for
“ and on Account of the said Company; Be it
“ therefore further Enacted, That the said Judges
“ of the Court of Exchequer in *Scotland* shall and
“ are hereby required to take an Account of those
“ his Expences and Losses, and likewise of his good
“ Services and publick Cares, and make a full and
“ fair Representation thereof to Her Majesty.

“ And to the End that the more full and free En-
“ quires may be made, and Information had of the
“ Premises, the said Judges of the Court of Exche-
“ quer in *Scotland* shall and may, from time to time,
“ Direct their Commission or Commissions to any
“ Commissioner or Commissioners within this King-
“ dom of *Great Britain*, or Dominions and Territo-
“ ries

“ ries thereunto belonging, for taking the requisite
 “ Examinations or Informations to the Purposes a-
 “ foresaid, and for reporting the same to the said
 “ Judges of the Court of Exchequer in *Scotland*.

After passing the above-mentioned Act of Parlia-
 ment, Mr. *Paterfon* did make his Application to the
 Judges of the Court of Exchequer in *Scotland*, who
 were thereupon pleas'd to Direct Mr. *Roderick Mac-*
kenzie, the Company's Secretary, to lay the Facts
 relating to Mr. *Paterfon*'s Claim before the Court.

Whereupon the before-mention'd Extract, marked
 No. I. in the Report out of the Register Books of
 the said Company, was, on the 23d of *July* 1708,
 laid before the Judges of the Court of Exchequer at
Edinburgh, and Sworn unto by the said Mr. *Rode-*
rick Mackenzie.

July 23,
1708.

And it further appears by the said Report and Ex-
 tracts, That pursuant to the said Conditions, the Sum
 of 600000 *l.* Sterling was soon after Subscribed to
 the Capital Stock of the said Company, and one
 fourth Part thereof actually Paid to their Order and
 Use, by which the said Præmium of Two *per Cent.*
 amounting to 12000 *l.* became due to Mr. *Paterfon*.

That by Mr. *Paterfon*'s Accompt Current with the
 said Company, as Extracted out of their Books of
 Accompts, and likewise upon Oath laid before the
 said Judges of the Court of Exchequer at *Edinburgh*,
 by *James Dunlop* and *John Symmer*, the said Com-
 pany's Accomptants, the 5th Day of *August* 1708, it
 doth appear that Mr. *Paterfon* hath not receiv'd the
 said Two *per Cent.* Præmium, amounting to 12000 *l.*
 but that only the Sum of 435 *l.* 15 *s.* 1¹/₂ *d.* remains in
 his Hands, being the Ballance of divers Sums of Mo-
 ny, receiv'd by him from the said Company, amoun-
 ting to 25526 *l.* 8 *s.* 5¹/₂ *d.* all which, except the said
 Ballance, had been issued out, paid and allowed for
 the

August 5.
1708.

the Use of the said Company, and for which he had Credit given him, as by the said Accompt Current appears; so that the Sum of 11564 *l.* 4*s.* 10*d.* Remainder of said Premium, with the Interest of Five *per Cent. per Annum*, allow'd by the Treaty of Union from the said 6th Day of *November* 1695, appears to be still due to Mr. *Paterfon*.

Mr. *Paterfon* further claims Satisfaction for his subsequence Pains, Expences and Losses, on that Company's Account, from *Christmas* 1695, the time when himself and many of his Friends had the heavy Misfortune to fall under the Displeasure of Parliament, even to an Impeachment for the Sake and Service of this Company, as appears by the Journals of the House of Commons of the 21st of *January*, in the same Year, to which Journal he particularly refers for Corroberation of these and other Proofs relating to his Claim.

Besides several particular Expences and Losses, hard to be proved at such Distance of Times and Place, and for which nevertheless there ought in Justice Allowance to be made, the Petitioner cannot value this last Expence and Loss, at less than 1500 *l.* *per Annum*, for the space of Sixteen Years last past, or 24000 *l.* in the whole, as by the Estimate or Scheme thereof herewith Printed appears.

The abovementioned Report of *July* 23, 1708, delivered in with the following Extracts out of the Company's Books is not herewith Printed, as being upon the matter the very same thing with the following Depositions and Examinations of the said Mr. *Mackenzie* in the Court of Exchequer in *Scotland* since taken.

London 21st.
Febr. 1711-12.

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C O N T E N T S.

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INTERROGATORIES

T O B E

Administred to such Witnesses as shall be Produced, Sworn, and Examined on the Part and Behalf of William Paterfon, Esq; in a certain Cause wherein the said William Paterfon is Complainant; and David Earle of Glasgow, Lord Clerk Register, Sir David Dalrymple of Hales, Her Majesty's Lord Advocate, or Attorney-General, Sir Andrew Home, Mr. William Dalrymple, Sir Robert Sinclair, Sir Thomas Burnet, Sir John Erskine, Sir John Swinton, Sir James Campbell, Sir James Smollet, Sir Patrick Johnston, John Bruce, William Seaton, Alexander Abercrombie, Mr. John Pringle, Sir John Cope, and John Bridges, Commissioners appointed by Her Majesty for distributing the Equivalent Mony, are Defendants.

Roderic
Mackenzie,
Jurat 30. die
Decembris,
Anna Regni
Dom. Annae
nono, 1710.
Coram me
A. Maitland.

I. *Imprimis.*



O you know the Parties, Plaintiff and Defendants, or any and which of them? how long have you known them, or any and which of them? Declare.

II. *Item.* When, and about what time, and by whom were you engaged to serve the late Company of Scotland, trading to *Affrica* and the *Indies*, in the Quality of Secretary? Where, or in what Place or Places? And how long did you continue to serve the said Company in that Station? and who were the constituent Members of the said Company, at the time of such your Engagement? Declare.

III. *Item.* Whom, or what Person or Persons, did you understand or was informed to have been chiefly the Framer or Framers of the principal Designs of that Company, and of the Act of Parliament, 1695, by which it was established? Declare your Knowledge, and Belief therein at large, with your Reasons.

A

IV. *Item.*

IV. *Item.* Did any, and what Members of the said Company, in or about the 6th Day of *November*, in the Year of our Lord 1695, or at any other time, and when, and by what Warrant, meet at *London*? In what Place there? what was the Intent of such Meeting? Was the same for the purpose of taking any, and what Subscriptions to the Fund-Capital, or Joint-stock of the said Company? What was the Number and Names of such Members as you remember or believe? And was such Number the Major, or Minor, or any part of the Nominees in the Act or Acts of Parliament, which constituted the said Company, and of whom did the Company consist before any Subscriptions were taken in? Whether of the Nominees in the said Act, or any other Persons; and what Induction or Preamble was framed to be set at the Head of the then intended Subscriptions? Is the Paper, Writing, or Extract under your Hand, now produced, and shown to you at the time of this your Examination (marked No. 1.) a true Copy of such Induction or Preamble? whence had you the same, and was it at the Head of the said intended Subscriptions or not? If yea, With what intent was it done, and were the Subscribers or any and which of them apprised of the Substance and Contents thereof; and how, and in what manner in particular? Was the same publicly read at first, and afterwards laid open to common View and Inspection? Or was the same concealed and kept Private, and who were the Person or Persons that constantly attended at taking the said Subscriptions, and where did the same happen? Declare.

V. *Item.* What is your Knowledge or Belief touching the Merit and Expence of the Complainant, and of other the Facts relating to him, whereof Notice is taken in the said Preamble (is such Relation as you know or believe true) and in what Particular or Particulars? Declare.

VI. *Item.* Did the Complainant at *London*, engage any, and what Subscriptions, to the said Company's Stock, and to what value, and what Part of the Sums subscribed were Paid in at the time of subscribing, as you know or believe?

VII. *Item.* Had the Complainant at the time of such Subscriptions any, and what Habitation in *England*; did he continue or quit the same when the Subscriptions were there Compleat? If the latter, At whose Request or Desire did he quit such his Residence, and did he Repair to *Scotland*, or to any other, and to what Place, and to what End and Purpose, and upon what Account? Declare your Knowledge and Belief herein at large, with your Reasons.

VIII. *Item.*

VIII. *Item.* How long did you reside and stay in *England*, before and after the time of such *English* Subscriptions? When did you come to *Scotland*, and at whose desire, when did you arrive here? Did you still continue to serve the said Company, and in what Station or Quality? And in whose Custody in *Scotland* was the Book of *English* Subscriptions, at the time of your Arrival here? Who committed the Custody thereof again to your Charge, and were such Subscriptions esteemed a Part of the Company's Stock or not? Declare, with the Reasons of your Knowledge or Belief.

IX. *Item.* Were any Books opened in *Scotland* for the purpose of taking other additional Subscriptions here? Was there any and what Induction or Preamble set at the Head of such other Subscriptions? What was the same? And is the Paper, Writing, or Extract under your Hand now produced, and shown to you at this the time of your Examination (marked No. 2.) a true Copy of such Induction or Preamble? whence had you the same, and was such Induction or Preamble understood to refer to the other Preamble or Induction to the *English* Subscriptions, and to be subject to the same Conditions and Constitutions, as were set down therein? Declare, with the Reasons of your Knowledge and Belief. And are the several Papers, Writings, or Extracts under your Hand now produced, and shown to you at the time of this your Examination, (marked No. 3, 4, 5.) true Copies of the Originals thereof? Whence had you the same, and where are these Originals or Records from whence these Extracts were made?

X. *Item.* Did the Company's Affairs prosper or decline, and when, and what was the Cause of such Prosperity or Declension? Was the Complainant sent on any or what Message or Employment to *Holland* and *Hamburg*, or either and which of these Places? By whom was he sent there, with what Design, and how did he act, and what did he do therein; and is the Paper, Writing, or Extract under your Hand now produced and shown to you (marked No. 6.) a true Copy of the Original thereof? and whether or not was any Reward given or proposed to him for his said Undertaking, before, at, or after the time of his going then Abroad, to both or either of the aforesaid Places; and whether did he accept of, or receive any Reward proposed to him on that Occasion; and is the Paper, Writing, or Extract under your Hand, now produced and shown to you at this the time of your Examination (marked No. 7.) a true Copy of such Proposal, or Resolution of the Court of Directors of the said Company; was the Complainant then present, and consenting to or approving of the same;

and what gave a Rise to that Proposal or Resolution, and how came it to pass that it was not perfected? Declare, with the Reason of your Knowledge or Belief.

XI. *Item.* Did the Complainant go from hence, and proceed in the said Company's Service, on their Expedition to *Darien*; by whom in particular was he sent thither? How did he behave, and what Service did he do while there? And what Account did he give and to whom of his Negotiations and Transactions for the Company upon his return to *Scotland*? Declare the Truth, with the Reasons of your Knowledge or Belief.

XII. *Item.* What did you know or believe of or concerning the Complainant's Labour, Contrivance, Pains, Expences, Industry, Sufferings or Losses in or about his Negotiations, in projecting and carrying on the Designs of the said Company till the Dissolution thereof? And in serving the Government with respect to the publick Credit, and late Union of both Nations? Declare, and the Reasons of your Knowledge and Belief.

Signed,

JAMES GRAHAM.

DEPOSITIONS of Witnesses taken before John Hall, Gent. Examiner in her Majesty's Court of Exchequer at Edinburgh, in a Cause depending there, wherein William Paterfon, Esq; is Plaintiff against David Earl of Glasgow, Lord Clerk Register, Sir David Dalrymple of Hales, her Majesty's Lord Advocate General, Sir Andrew Home, Mr. William Dalrymple, Sir Robert Sinclair, Sir Tho. Burnet, Sir John Erskine, Sir John Swinton, Sir James Campbell, Sir James Smollet, Sir Patrick Johnston, John Bruce, William Seaton, Alexander Abercrombie, Mr. John Pringle, Sir John Cope, and John Bridges, Commissioners appointed by her Majesty for distributing the Equivalent Mony, are Defendants. Examined on the part and behalf of the Complainant William Paterfon, Esq;

Roderick Mackenzie, late Secretary to the Company of Scotland Trading to *Africa* and the *Indies*, Aged upwards of forty five Years, being a Witness produced, Sworn and Examined the thirtieth

eth Day of *December*, in the Year of our Lord one thousand seven hundred and ten, and in the ninth Year of the Reign of her present Majesty Queen *Ann*, Deposeth as followeth.

Imprimis, To the first Interrogatory this Deponent saith, That he this Deponent doth know the Complainant *William Paterfon*, and all and every one of the Defendants above particularly mentioned, some of them ten, some of them twelve, and some fifteen Years ago and upwards, except Sir *John Cope*, and *John Bridges*, Esq; whom he this Deponent had occasion to know transiently, only since the Union of both Kingdoms.

To the second Interrogatory this Deponent saith, That in or about the Month of *June*, 1695 Years, Sir *David Nairn* (one of the Patentees or Nominees in the Act of Parliament, or Letters Patent under the Great Seal of *Scotland*, by which the late Company of *Scotland* Trading to *Africa* and the *Indies* was Established) was the first Man who told him at *Old Man's* Coffee-house near *Charing-Cross*, of the design of Establishing the then intended Company; telling this Deponent at the same time, that they expected by every succeeding Post from *Scotland*, an account of the said Act's being past in Parliament, and obtaining the Royal Sanction; that the said Sir *David Nairn* (then designed *David Nairn*, Esq;) was desired by the Gentlemen principally concerned in carrying on the said Design, to look out for a proper Person to serve them in the Quality of Secretary; that he thought it might be both a very creditable and beneficial Employment, and therefore proposed to him this Deponent as his Friend; that if he this Deponent thought well thereof, he the said Sir *David Nairn* would instantly go along with him into the City of *London*, to wait upon the other Gentlemen, particularly the Complainant, who (as the said Sir *David Nairn* then informed this Deponent) was the chief Projector of this Design, and was principally relied on as to his Advice in most matters of Consequence relating thereunto; where they, the said Sir *David Nairn* and this Deponent, went accordingly, and that after having conferred twice or thrice with the Complainant, and the other Patentees or Nominees then living in *London*, they engaged him this Deponent conditionally to serve the said then intended Company in the Quality of Secretary, provided the other Nominees, Residenters in *Scotland*, or the Majority of the whole Nominees, when met, should approve thereof. And this Deponent saith, that in the mean time, by Direction of such of the said Nominees as were then at *London*, he this Deponent entered immediately upon keeping a regular Correspondence with those of them who were residing in *Scotland*:

land: That at a Meeting of the Majority of the said Nominees at *London* in or about one or other of the Months of *October* or *November*, 1695 Years, they the said Nominees of *London* approved and confirmed him, this Deponent, as chosen Secretary, and they did meet and act there as the Majority of the then constituent Members of the said Company. And this Deponent further saith, that he was sole Secretary to the said Company both in *England* and *Scotland* from the time of the first Institution thereof, which was in the said Year of our Lord 1695, 'till the time of its Dissolution by the Union of both Kingdoms, in the Year 1707.

To the third Interrogatory this Deponent saith, That from the first time of his being chosen Secretary to the said Company, to the Dissolution of the said Company by the Union, he this Deponent always understood, and doth still believe the Complainant *William Paterson*, Esq; to have been the chief and sole Framer and Projector of the principal Designs of the said Company; and of the first Draught of the Act of Parliament by which it was Established; for that as the same was generally acquiesced to, or acknowledged by all the Constituent Members of the said Company, during the Existence thereof, so that three of the said Nominees, viz. *Thomas Deans*, *Thomas Coutts*, and *James Cheisley*, came to *Edinburgh* from *London*, in Prosecution of the said Projection framed as aforesaid, to sollicite the Passing of the said Act in the said Year 1695. And some others likewise of the Nominees Residents in *Scotland*, did by several Letters bearing Dates at *Edinburgh* in the Months of *June* and *July* in the same Year above just before-mentioned (which this Deponent then read and took Copies of) inform their Correspondents at *London*, and particularly the Complainant, that the Draught of the said Act sent by him the said Complainant was followed, and kept as close as possible, with the addition only of a Narrative, and some few other Clauses adjected by the then King's Advocate, Sir *James Stewart*, whom they had consulted touching the same.

To the fourth Interrogatory this Deponent saith, That in or about the sixth Day of *November*, in the Year of our Lord 1695 Years, and at several other times in the said Year, the Majority of the said Patentees, or Nominees in the said Act of Parliament, and Letters Patent, did meet as a Company at the House of *Nathaniel Carpenter* in *Clements Lane* in *London*, for several and sundry purposes, tho' more especially for taking Subscriptions to the then proposed Capital-Fund, or Joint-Stock of the said Company, being the Sum of six hundred thousand Pounds Sterling Mony: That three of the ten Nominees, or Patentees, who

who were Residenters in *Scorland*, viz. the Lord Belhaven, Mr. Robert Blackwood, and James Balfour, did by special Deputation from the other Nominees then Residenters in *Scorland*, go expressly to *London* to make a Majority with the other ten Patentees or Nominees residing there, where the said Majority met accordingly as aforesaid; that before any Subscriptions were taken to the said Joint-Stock, the said Company consisted only of twenty Nominees or Patentees particularly designed in the said Act of Parliament and Letters Patent, viz. John Lord Belhaven, Adam Cockburn of Ormiston, (then Lord Justice Clerk) Mr. Francis Montgomerie of Giffen, Sir John Maxwell of Pollock, Sir Robert Cheisley (then Lord Provost of *Edinburgh*) John (now Sir John) Swinton of that Ilk, Geo. Clerk (then late Bailie of *Edinburgh*), Mr. Robert Blackwood and James Balfour, Merchants in *Edinburgh*, John Corse Merchant in *Glasgow*, William Paterson, (the Complainant) James Foulis, David Nairn, and Tho. Deans, Esqrs; James Cheisley, James Smith, Tho. Coutts, Hugh Frazier, Joseph Cohen, D' Azevedo, and Walter Stewart, Merchants in *London*, and of none other; that the said Patentees or Nominees frequently declared both jointly and severally to this Deponent's hearing, that they thought themselves, or the Major part of them sufficiently warranted to meet and act as a Company to all intents and purposes, 'till others could be regularly joined to, or assumed by them, and that not only by vertue of a special Clause in the said Act of Parliament, and Letters Patent, viz. With Power to the said Company by Subscription or otherwise, as they shall think fit, to raise a Joint-Stock; as particularly mentioned in the Extract No. 8. to which the Deponent refers, but likewise as being most consonant and agreeable to the common Practice of the generality of all other newly Established Societies of Trade in all the Countries of *Europe*, particularly pointed at also in the last general Clause of the said Act of Parliament, and Letters Patent, to which this Deponent doth likewise particularly refer. And for the further Verification thereof, this Deponent hath at the time of this his Examination, Exhibited and given in Authentick Copies of the said Act of Parliament, No. 8. and Letters Patent, No. 9. the Act being Signed and solemnly Sworn unto by two of the then Clerks of the Parliament of *Scorland*, and the Letters Patent by the Clerk of the Chancery, and the Lord Chancellor's Deputy Keeper of the Great Seal there for the time, in Presence of his late Majesty's High Commissioner, and the Lords of the Privy-Council, and attested by the Sign Manual of the Earl of *Merchmont*, then Lord High Chancellor of *Scorland*, and by the Signet of the Privy-Council; and this Deponent saith,

saith, that at all and sundry the Meetings of the Majority of the said Nominees at *London* as a Company, he this Deponent did meet with and serve them in the Quality of Secretary; that there was an Induction or Preamble framed and prepared by the Majority of the said Patentees or Nominees met as aforesaid, to be set at the Head of the then intended Subscriptions, and that the Paper, Writing, or Extract under this Deponent's Hand, produced and shown to him at the time of this his Examination, marked No. 1. is a true Copy of the said Induction or Preamble, that it was prefixed and set at the Head of all the Subscriptions then taken at *London*, amounting in the whole to the Sum of three hundred thousand Pounds Sterling Mony; that the said Preamble or Induction was prefixed to the said Subscriptions, for no other intent, that this Deponent ever knew or believed, but only to subject all the Subscribers or Adventurers in the Joint-stock of the said Company to the Rules, Conditions and Agreements mentioned in the aforesaid Induction; and that the same was publickly read, and unanimously agreed to, first by all the Nominees met as aforesaid at *London*, and then read, or at least laid open to the publick and common View and Inspection of all such Person and Persons as by subscribing the same became Members of the said Company, or Partners of their said Joint-stock. This Deponent saith, that all the Subscriptions taken in *England* were at the House of the said *Nathaniel Carpenter*, in the fourth Deposition named, and that the Persons who commonly attended at the taking the said Subscriptions, were some or other of the aforesaid Patentees or Nominees, together with this Deponent, who saith that he then attended constantly, and that he took the said Paper, Writing, or Extract (marked No. 1.) of the Original Book of *English* Subscriptions now by him, produced and compared *Verbatim* therewith at the time of this his Examination.

To the Fifth Interrogatory this Deponent saith, That he has frequently heard, and does verily believe, that for several Years before the Revolution, the Complainant went in Person to the *West-Indies*; and that upon his Return to *Europe*, he the said Complainant had framed a Scheme of Trade, different from the Methods and Constitutions of any of the then trading Companies of *England*, to have been carryed on under the Umbrage and Sanction of some *European* Potentate or other, who might give them greater Privileges and Immunities than were consistent with the Laws of *England* then in force: That in pursuance of that Resolution, he the said Complainant (with the Assistance of some others concern'd with him) did obtain several *Otroys* or Charters

Charters from the Elector of *Brandenburgh* (now King of *Prussia*) the Cities of *Emden* and *Bremen*, with very large Privileges and Immunities, for carrying on the Complainant's aforesaid Design; and that he this Deponent did see the said Octroys or Charters, together with the Translations thereof. That in the Year of our Lord One thousand six hundred ninety and three, an Act of Parliament, having pass'd in *Scotland*, entituled, *An Act for encouraging of Foreign Trade*; the same was conceived in such Terms, as gave no effectual Encouragement to any Person or Persons to enter into Societies, for carrying on a Trade to the *East* or *West-Indies*, or Coast of *Affrica* (as seems to have been intended by the general Word of the said Act.) Nothing followed thereupon till in the Year of our Lord 1695. The Complainant, after his having been some few Years in *England*, and raised his own Character, by the Hand he had (as this Deponent saith he always heard, and doth believe) in projecting the Bank of *England*, the Orphan's Fund, and other Schemes about the publick Credit; several Merchants and others of his Country-men (he being a Native of *Scotland*) did apply to him for his Advice and Opinion, touching the Establishment of a Company or Companies for carrying on a Trade to the *East* or *West-Indies*, or the Coast of *Affrica*, directly from *Scotland*; he the Complainant, upon Assurances given him, (as this Deponent hath heard it said, and doth believe), That the Parliament of *Scotland* would readily condescend to any encouraging Privileges and Immunities necessary for such a Design, was prevail'd upon to frame a Draught of the foresaid Act of Parliament for that purpose, and upon passing of the said Act in Parliament, to appropriate to the said Company's Use all the new Discoveries in Trade and Navigation, which he had made in the space of about nine or ten Years before the Commencement of the said Act; as also several curious Manuscripts, Journals, Maps, Books, and other Papers of Commerce relating thereto, which he afterwards (in this Deponent's Presence) deliver'd to the Directors of the said Company, and were by them sent on Board the said Company's Ship the *St. Andrew* to *Darien*, to be as a standing Library for the Use of the then intended Council and Government of their Colony there. But as to what Expence and Disbursements the Complainant might have been at in and about the Premises, this Complainant saith he can give no particular Account thereof, though this Deponent doth verily believe, that the same must have been very considerable, but what Particular or Particulars this Deponent cannot possibly declare or set forth, besides the loss of his

time, and neglect of his other Affairs in *England*, particularly that Affair of the Orphan's Fund, which seem'd then to this Deponent to have been of great Moment to him the said Complainant, when he first engaged himself in the Affairs of the said Company.

To the Sixth Interrogatory this Deponent saith, That he cannot be special as to all the particular Subscriptions that the Complainant did by his own Industry, Reputation and Interest (Exclusive of all others) procure and obtain to the Joint-stock of the said Company; but that in the space of nine Days time, from the sixth of *November*, One thousand six hundred ninety and five Years (upon which Day the Book of Subscriptions was first opened in *London*) the compleat and full Sum of three hundred thousand Pounds Sterling Mony (as the one half of the then intended Joint-stock) was subscribed by several Persons Residents in *London*, chiefly (as this Deponent doth believe) by the Interest, Reputation, and Procurement of the Complainant, with the Assistance of some few other Persons then concerned with him, without any publick Print, or written Advertisement whatsoever for that End. And that every Subscriber, at the respective times of his, her, or their Subscriptions, did severally Pay in the first fourth Part of all the Sums so subscribed, either in Gold, Silver, Bank Notes, or Notes payable upon Demand.

To the Seventh Interrogatory this Deponent saith, That at the time of such Subscriptions, the Complainant had then a Dwelling House in the Parish of *St. Giles in the Fields*, and had at that time very considerable Business in *London* growing upon him Daily; but that upon the then *House of Commons* having impeached him the Complainant, and several other Persons for alledged High Crimes and Misdemeanours, in carrying on the Designs of the said Company, and particularly for raising the Sums subscribed for, and payed in as aforesaid, he the said Complainant was prevailed upon by the Perswasion of the said *Lord Belhaven*, *Mr. Robert Blackwood* and *James Balfour*, deputed from *Scotland* as aforesaid, and by that also of the other Nominees in general, to repair to and make the best of his way for *Scotland*; and the abovenamed deputed three Nominees, did in the Presence of this Deponent then declare, and give repeated Assurances to him the said Complainant, that he should be heartily welcome upon his Arrival there, and as far as they had any Interest or Power in *Scotland*, he would not have Occasion to repent for his so doing; and to this Deponent's Knowledge, the Complainant did accordingly come to *Scotland*, leaving his Family and Business in *England*, to the fate of whatever should happen thereupon.

To the Eighth Interrogatory this Deponent saith, That he did reside in *England* for the space of near eleven Years, before the time of taking the aforesaid Subscriptions at *London*, in *November* 1695 Years, and continue there till the fourteenth Day of the then succeeding *April* in 1696 Years, on which Day this Deponent saith, that at the desire and by advice of several of the aforesaid Nominees, and others concerned in the said Company's Joint-stock, he took Post for *Scotland*; that he arrived at *Edinburgh* (to the best of his Memory) on the sixteenth Day of the same Month of *April* aforesaid; that he still continued to serve the said Company in the Quality of Secretary, while it continued to be a Company; that at the time of this Deponent's Arrival in *Scotland*, the Book of the aforesaid *English* Subscriptions was in the Custody of Mr. *Robert Blackwood*, one of the aforesaid ten Nominees Residenters in *Scotland*, till the keeping thereof was again committed to this Deponent's Charge by Order of the said Company; and this Deponent saith, that those *English* Subscriptions were then esteemed as a Part of the said Company's Joint-stock, and that the same appears to him this Deponent to be undeniable for many Reasons, which may be given if needful, and particularly, *First*, Because though by the Constitutions of the said Company the Government and Management thereof was appointed to be in and by a Court of Fifty Directors to have been chosen by Scrole and Scrutiny; yet when the Subscribers in *Scotland* proceeded to nominate and chuse the Directors, they chose only twenty five Directors, to represent that part of the Company's Joint-stock, which was then subscribed in *Scotland*, and reserved the chusing the other twenty five Directors, for representing the other half of the then Joint-stock which was subscribed in *England*. *Secondly*, Because several of the Subscribers at *London*, viz. the Complainant *William Paterson*, *James Campbell*, *James Smyth*, and *Daniel Lodge*, meerly by Vertue of their Subscriptions in *England*, were (long after this Deponent's Arrival in *Scotland*) *De Facto* admitted to meet, sit, vote, and act with the Court of Directors of the said Company at *Edinburgh*, as Directors of the said Company in all Matters and Things whatsoever relating to the Subscriptions taken in *Scotland*, as well as those taken in *England*. *Thirdly*, Because the Court of Directors of the said Company did, after this Deponent's Arrival in *Scotland* as aforesaid, so far esteem and consider the abovementioned *English* Subscriptions as a part of the said Company's Joint-stock, that upon the 23d of *June* 1696 Years, they gave particular Instructions with a Commission to two of their own

Number, viz. the said *James Campbell* and *James Smyth*, to negotiate at *London* all Matters relating to the said *English* Subscriptions, and did on the 9th Day of *July* in the Year 1696, cause Print and publish an Act, and Advertisement, containing Certification to such as should not Pay the first fourth Part of their respective Subscriptions before the 10th Day of *August*, then next immediately following, which though conceived in general Terms to all Subscribers whatsoever of the Company's Joint-stock indefinitely, for avoiding any just Cause or Pretence for Offence (as this Deponent saith, he doth positively know) was indeed more immediately calculated for the Subscribers in *England*, to whom printed Copies thereof were purposely transmitted, and (as this Deponent saith he doth believe) delivered accordingly by the said Mr. *James Campbell* and *James Smyth*. Fourthly, Because that in pursuance of the said Court of Directors, their above in-part-recited Act and Advertisement, bearing date the 9th Day of *July* 1696 Years, and approved of by an Act of the Council-General of the said Company, bearing date the third Day of the then following *August*, in the said Year 1696; the said Court of Directors did by their further Act of the twentieth Day of the same Month of *August* in the said Year 1696, vest in themselves, for the Use of the said Company, the Sum of two hundred eighty five thousand Pounds Sterling Mony of the aforesaid *English* Subscriptions, as having been then lately relinquished by the Subscribers thereof, after Publication of the aforesaid Advertisement. Fifthly, Because that when upon several encouraging Invitations from *Amsterdam*, *Hamburg*, and other Parts beyond Sea, the Complainant *William Paterson*, and other Deputies commissioned by the Company, went thither with Power to admit Foreigners, as Sharers in the said Company's Joint-stock; the Council-General, and Court of Directors of the said Company, did so far resolve not to disjoin the aforesaid *English* Subscriptions from being a Part of the Company's Joint-stock, that they would not admit any new Subscriptions to have been taken beyond Sea, instead of the abovementioned *English* Subscriptions, but invested the same in Manner aforesaid, and in pursuance of the Power granted by the aforesaid Acts of the ninth of *July*; the third, and twentieth Days of *August*, in the said Year of our Lord 1696, The said Court of Directors did by their subsequent Act, and Commission of the sixteenth Day of *September*, in the said Year 1696, Authorize the Complainant, and certain other Deputies therein named, to assign and transfer two hundred thousand Pounds Sterling Mony of the aforesaid *English*

glisb Subscriptions then relinquished, and vested in manner aforesaid, unto such Foreign Merchants, Bodies Politick or Corporate, as they the said Deputies could agree with, touching the same.

To the ninth Interrogatory this Deponent saith, That for the convenience of such as had then a mind to be Subscribers, there were two Books opened in *Scotland* in or about the 26th Day of *February*, 1696, for the purposes of taking other additional Subscriptions in *Scotland*, to the amount of three hundred Pounds Sterling more, for compleating the first intended Capital-Stock of six hundred thousand Pounds Sterling abovementioned; which being compleated accordingly, and the aforesaid Nominees or Patentees, together with such other Adventurers as were then joined with them, finding that many other Residents in *Scotland*, who had not then as yet Subscribed, were willing to become Partners of the said Joint-Stock of the said Company, and finding also that by the aforesaid Act of Parliament and Letters Patent, they had a Discretionary Power to Augment, Restrict, or Diminish the Quota of their Capital-Stock, to any Sum that they should think fit, they resolved to continue their Books open 'till the further Sum of one hundred thousand Pounds Sterling more should be Subscribed in *Scotland*, so as the same should happen before or upon the first Day of the then next and immediate succeeding Month of *August*, 1696. And this Deponent saith, that Subscriptions for the Sum of one hundred thousand Pounds Sterling more were likewise compleated in that time aforesaid; and this Deponent saith, that there was a short Induction or Preamble set at the head of all the aforesaid Subscriptions taken in *Scotland*, and that the Paper, Writing, or Extract, under this Deponent's Hand, and now produced and shewn to him at the time of this his Examination, (marked No. 2.) is a true Copy of the said Induction or Preamble, and that he took the same off and compared it with the Original (as this Deponent saith he believeth) in the Custody of *James Dunlop*, chief Accomptant to the said Company, living in *Edinburgh*: That whether this last Induction or Preamble was by the Framers thereof understood, and then intended to refer to the other Preamble or Induction to *English* Subscriptions aforesaid, and to be subject to the same Conditions and Constitutions as were set down therein, this Deponent cannot be positive, because he was not then arrived in *Scotland*; but saith, that according to his humble Apprehension of the natural Import of the general Words in which the said last Induction or Preamble, (marked No. 2.) is conceived, it may seem to have had then probably referred to the Conditions

ditions and Constitutions contained and set down in the aforesaid other Preamble or Induction to the *English* Subscriptions, and that not only for the several Reasons specially mentioned in this Deponent's Answer to the aforesaid *English* Interrogatory, to which this Deponent doth now particularly refer; but likewise, because at the time of framing the said last Preamble or Induction to the Subscriptions taken in *Scotland*, (marked No. 2.) there were no other standing Rules, Conditions, or Constitutions whatsoever extant and agreed upon by the said Company, excepting only these set down, and contained in the aforesaid first Preamble or Induction, (marked No. 1.) And this Deponent further saith, that the several Papers, Writings, or Extracts under his Hand now produced, and shewn to him at the time of this his Examination, (marked No. 3, 4, 5.) are true Copies taken by him this Deponent off the said Company's Books of Records, now by him produced and compared *Verbatim* therewith at the time of this his Examination; and this Deponent saith further, that the said Records, from whence these Extracts were made, have always been and still are in his this Deponent's possession and keeping.

To the tenth Interrogatory this Deponent saith, That it was notoriously known to an indefinite number of People both in *England*, *Scotland*, and elsewhere, as well as to him this Deponent, that as no Trading Company in *Europe* was ever Established with greater Privileges and Immunities than the aforesaid Company, so it was scarcely possible for them to have had in so short a time a more promising view of Success than the said Company had about the latter end of the Year 1695, until the Parliament of *England* thought fit to interpose their Authority for obstructing and crushing the said Company's Designs in the Infancy thereof; which indeed seemed then to strike a great Damp on the Spirits of the generality of the aforesaid Nominees, and such other Persons as were then principally concerned. That in some few Months time thereafter, the said Company's Affairs begun again to have a very prosperous view, when Subscriptions were carried on in *Scotland*, with almost incredible Success, chiefly (as this Deponent saith he frequently heard it said) by reason of the great Opinion that the generality of the Adventurers had then conceived of the Complainant's Capacity and Qualifications for directing and carrying on Enterprizes of that Nature, insomuch that the most considerable part of the Nobility, Gentry, and whole Body of the Royal Barons in *Scotland* became to be jointly concerned in the
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Stock of the said Company. That upon several encouraging Invitations from *Holland, Hamburgh*, and other places beyond Sea, the Court of Directors of the said Company did, in or about the Months of *September* or *October*, 1696, send the Complainant *William Paterson*, together with three more of their own Number, as the said Company's Deputies, and Representatives, or Commissioners, to the aforesaid places beyond Sea, for admitting Foreigners into certain Shares of the said Company's Joint-Stock, and particularly for Transferring unto Foreign Merchants, Bodies Politick or others, any Sum or Sums not exceeding two hundred thousand Pounds Sterling of the above-mentioned *English* Subscriptions, then vested in the Court of Directors, with Power likewise to the said Deputies to receive for the said Company's use the first fourth part of such Sum or Sums as should happen to be Transferred in manner aforesaid; that the Complainant went to the above-named Places accordingly, and did, jointly with the said Company's other Deputies, enter into Contracts and Agreements with several considerable Merchants, and other Citizens of *Amsterdam* and *Hamburgh*, for Transferring the aforesaid two hundred thousand Pounds Sterling of the said Company's Stock invested as aforesaid; but that those Contracts and Agreements were (as the said Deputies had, upon their return to *Scotland*, reported to their Constituents) rendered ineffectual by Acts of Violence, and threatening the Inhabitants of the aforesaid Cities from fulfilling their said Engagements, and particularly by reason of three several threatening Memorials given to the Senate of the City of *Hamburgh* jointly, by Sir *Paul Rycant*, his late *Britannick* Majesty's Resident in that City, and Mr. *Grosset* his said Majesty's Envoy Extraordinary at the Courts of *Limenburgh*, in or about the Months of *March* or *April*, 1697, expressly declaring, that the then King their Master had ordered to notify to the said Senate, that the said Company's Commissioners had neither Credential Letters, nor were any otherwise Authorised by his Majesty. And this Deponent saith, that the Paper, Writing, or Extract under his Hand, (marked No. 6.) now produced, and shewn to him at the time of this his Examination, is a true Copy of the Record of which it was taken, as the same produced now likewise, and compared therewith *Verbatim*, doth testify: And saith further, that (besides the twenty Shillings Sterling *per Diem* allow'd to the Complainant for Travelling Charges, as the like Sum was also allowed to each of the Deputies aforesaid) this Deponent knoweth of no Reward given or proposed to have been given to him the said Complainant, before, at, or after
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the time of his going then beyond Sea on the aforesaid account, excepting what is particularly mentioned in the Paper, Writing, or Extract under this Deponent's Hand, (marked No. 7.) now produced, and shewn to him at the time of this his Examination. And saith also, that the said Extract, (marked No. 7.) is a true Copy of the Record thereof, now produced likewise, and *Verbatim* compared therewith; and this Deponent saith further, that he cannot tell whether the Complainant consented to, or approved of the said Act or Resolution of the then Court of Directors of the said Company, (marked No. 7.) as aforesaid, because that when the said Complainant came into the Director's Room, and had his Name set down of course in the Minutes of the Court as a Director, he was ordered to withdraw and wait at *Maclurg's* Coffee-house 'till he'd be sent for, because (as they then said) they had something to be moved in Court that concerned him in particular: That he the Complainant was not sent for 'till the said Court was up, because the said Directors did not seem to be unanimous about the latter part of the said Resolution, but referred it to some of their Number to acquaint him of it; that neither the Complainant, nor any other Person whatsoever, was at the pains to take out an Extract or Authentick Copy of the said Resolution, 'till this Deponent was, by order of the Barons of her Majesty's Exchequer in *Scotland*, ordered to Exhibit Extracts thereof, and of the other Papers above-mentioned, in the Year 1708, touching the Complainant's Claim: That neither the Complainant, nor any other Person for him, did ever move to have had the said Act or Resolution of the said Court of Directors confirmed or approved of by the then Council General of the said Company: That the said Resolution had its first Rise (as this Deponent saith he believeth) from some Proposals made by the Committee of Foreign Trade of the said Company, touching the manner of Gratifying the Complainant for his Merit, Expences, and Trouble, in promoting and carrying on the Interest and Designs of the said Company; and that some of the then Directors, particularly Sir *Hew Dalrymple*, President of the Session, and *William Hay* of *Drummellzier*, did publicly declare, that tho' they thought the Complainant merited very much at the Company's Hand, yet they would repine less at his having twenty, thirty, or almost fifty *per Cent.* out of the Profits, than any thing at all out of the Original Capital Stock of the said Company.

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To the eleventh Interrogatory this Deponent saith, That the Complainant did in the Year 1698 go from *Leith*, and proceed in the said Company's Service on their first Expedition to *Darien*, and that he was sent thither by the Directors of the said Company in general, but more immediately by the particular Committee of the said Directors who were absolutely impowered to give such sailing Orders and Instructions, as they thought fit, to all who went upon that Expedition: That by the generality of all the Accounts (that this Deponent ever heard) from such Persons as were in *Darien*, and returned from thence, he the said Complainant (while he was there) did beheave Large better than all the other Councillors of that Colony. And this Deponent saith further, that he saw and read a Certificate under the hand of Captain *Vetch*, one of the late Conucellors of the said Colony, by which it appeared, that the said Complainant had supplied the said Colony with Lime-Juice, Tobacco, Sugar, Rosin, and some other small things, upon his own private Credit out of a Sloop's Cargo, that was consigned to him from *Jamaica*, as this Deponent was informed. And this Deponent saith further, that after the Complainant had returned from *Darien* to *Scotland*, he gave in to the then Court of Directors of the said Company, a particular Journal or Report of all the most remarkable Negotiations and Transactions that he was any way concerned in, for or on behalf of the said Company, together with his Observations upon the behaviour of others also, both in their outward and homeward Voyage, as well as while they stayed at *Darien*. And this Deponent saith further, that upon divers and fundry occasions both publick and private, he heard the Complainant declare with concern, that he thought himself in Honour engaged to use his utmost Endeavour, and study while he lived to project and contrive Means, by which all the Mony advanced by the Adventurers of the said Company might be recovered and repay'd to them with Interest. And this Deponent further saith, that he has ground to believe, that the said Adventurers, their having been Paid all their advanced Stock with Interest at the rate of five *per Cent. per Ann.* from the respective times of Payment, in pursuance of the fifteenth Article of the Treaty of Union, was really and truly the effect of the Complainant's Contrivance, Industry, and Care, more than that of any other single Person whatsoever.

To the twelfth Interrogatory this Deponent Taith, that as to the Complainant's Labour, Contrivance, Pains, Expences, Industry, Sufferings and Losses in and about his Negotiations, in projecting and
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carrying on the Designs of the said Company, this Deponent can say little more than what he has already declared in his said several Answers to the above in part recited Interrogatories; to all and sundry which Answers, he doth hereby respectively refer. But as to what may concern the Complainant's Labour, Contrivance, Pains, Expences, Industry, Sufferings or Losses, in and about his Negotiations in serving the Government, with respect to the publick Credit, and late Union of both Nations, this Deponent saith he cannot be particular, otherwise than that he always heard and understood, not only by the Complainant's own Information, but likewise by the almost universal consent and undisputed Acquiescence of an indefinite Number of People of all Ranks and Degrees in *London* and elsewhere, (and doth believe) that the said Complainant was the first Contriver of the Bank of *England*; that he has for a course of several Years past been subservient to several of the Ministry, and more particularly to the late Lord Treasurer of *Great Britain*, in Projecting Funds and Schemes of Acts of Parliament for supporting the Publick Credit, and for improving several Branches of the Publick Revenues. That he had a great share in contriving Schemes of many of the most considerable Articles of the late Treaty of Union, particularly in the Matters relating to the Designs and Applications of the Equivalent Mony, the Dissolution and Payment of the advanced Stock of the late *Indian* and *African* Company of *Scotland*, and generally all such Articles as had most immediate relation to the Trade, and the Publick Revenues; that he was present, and in a subservient Degree (as this Deponent was inform'd, and doth believe) very useful, and assisting in bringing the said Treaty to a Conclusion. That about the time of Signing the said Treaty, several of the Commissioners of both Nations (as this Deponent was credibly informed, and doth believe) had signified their Inclinations for having the Complainant undertake a Journey from *London* to *Scotland*, in order to his giving further assistance in compleating the said then intended Union, and had for that end severally addressed the then Lord Treasurer on the Complainant's behalf, for giving him the needful Encouragement and Support. That the Complainant came accordingly to *Scotland* in the Year 1706, where he remained and gave close Attendance on those of the Ministry, and several other Members of the Parliament of *Scotland*, during all the last Session thereof, which terminated in the Year 1707. And this Deponent saith, That (to his own certain knowledge) the Complainant was then very diligent and assisting to some
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of the Officers of State, and Members of Committee, in explaining and illustrating several Passages in the aforesaid Articles, that were excepted against, or not clearly understood by some of the then Members of Parliament; and that the Parliament of *Scotland* had so great a Sense of his publick Services on that Occasion, that they were pleased to recommend him to her Majesty's gracious Favour. And further saith not this Deponent that is material, or of any Advantage to the Complainant, than what he this Deponent hath to the several Interrogatories already before declared.

*Vera Copia Depositionis Capt'
Per me Joh. Hall, Extr'
Apud Secretar' Edinburgensis.*

R O D E R I C K M A C K E N Z I E.

At London, the 6th of November, 1695.

PURSUANT to an Act of Parliament of the Kingdom of *Scotland*, Entituled, *Act for a Company Trading to Africa and the Indies*, We the Subscribers do each of us for himself, and not one for another, become obliged for the Payment of the respective Sums by us severally Subscribed, subject to the following Rules and Conditions, *viz.* That the Joint-Stock, or Capital Fund, of the said Company, do consist of Six hundred thousand Pounds Sterling: Whereof one Quarter part shall be paid at the time of Subscription, to two or more of the Persons named in the said Act of Parliament; and the Remainder thereof in such Parts and Proportions, Time and Manner, as the said Company shall, from time to time, direct and appoint. No. 1.

That if any of the Subscribers or Proprietors of the said Stock or Capital Fund, shall not pay or cause to be payed, the remaining part of his, her, or their Subscriptions in such Time, Manner and Proportion, as shall be, from time to time, appointed by the said Company; or in case they, or any of them, shall become Indebted to the said Company, or any other ways howsoever, the Part or Share of Stock in the said Fund, belonging to such Person or Persons, shall, from thence forward, be and remain to the use of the said Company, to be by them sold and disposed of, for paying and satisfying such Debt, so become due unto them.

That in regard Mr. *William Paterson*, and others concern'd with him, have been at great Pains and Expence, in making several considerable Discoveries of Trade and Improvements, in and to both

the *Indies*; and likewise in procuring needful Powers and Privileges for a Company of Commerce from several Sovereign Princes and States; and for which he and they have contrived, suited and designed the said Company: In Consideration whereof, it is hereby agreed, that the said *William Paterson*, his Executors, Administrators, or Assigns, shall, out of the first Payment, have and receive Two *per Cent.* of the Mony to be subscribed in the said Capital Fund; as also Three *per Cent.* of the Issues, Profits and Product of the said Fund, for the space of Twenty one Years; which shall be Redeemable for Two *per Cent.* more of the said Capital Fund, any time in Five Years.

That the Government, Management, Power and Disposition of the said Joint-Stock or Capital Fund, and other Matters, Things and Effects whatsoever, of or belonging to the said Company, shall, in all time hereafter, be and remain in a Court of Directors, consisting of the Persons named in the said Act of Parliament, together with such others as shall be Proprietors of the respective Sums of One Thousand Pounds Sterling, or more, in the said Joint-Stock or Fund, and shall likewise be deputed in Writing, by such other Proprietors therein, as (including such Thousand Pounds Sterling or more) shall compleat the Sum of Twenty thousand Pounds Sterling thereof: Provided, that none be admitted to Depute more than one Person for one and the same Sum or Proportion of his Stock: And in case the full number of Fifteen Persons be not so Deputed, in one Month after one Moiety thereof shall be Subscribed, or if the full Number of Thirty Persons be not Deputed in one Month after the whole shall be Subscribed: In either of the said Cases, the Court of Directors, for the time, may by Majority of Votes, signified by Scrol and Scrutiny, compleat the said Numbers, or either of them.

And it is hereby Declared and Understood, That the Persons nam'd in the said Act of Parliament, or the Survivors of them, are, were, and ought to be a compleat Court, until others be added unto them, in manner aforesaid; and that the manner of compleating the Number, and continuing the Succession of Fifty Directors, appointing the Times and Places of Meeting, the *Quorum* of the Persons, the Constituting and Impowering of Committees and Sub-committees of their own Number, fixing of Servants, settling of Fees and Sallaries, and all other Matters and Things relating to the said Company, shall be ordered, fixed, and settled in the Constitutions to be made by the said Court of Directors, and that every Director or Member of the said Court,

Court, and all others concern'd in the said Company, be concluded by, and subject to such Elections, Successions, Scrutinies, Censures, Deprivations, Dis-abilities, Ordinances and Rules, as shall be made and contained in such Constitutions.

And that the said Joint-Stock and Capital Fund shall be, remain and continue, subject unto all such further and other Rules, Conditions and Qualifications, and to be used, governed, ordered and disposed of, as the said Company shall, from time to time, Direct and Appoint.

Extracted out of the Books of the said Company, by me,

JOHN TARVER.

ROD. MACKENZIE.

23 July, 1708.

Edinburgh the Twenty Sixth Day of February, One Thousand Six Hundred and Ninety Six Years.

PURsuant to an Act of Parliament Entituled, *Act for a Company No II. Trading to Africa and the Indies*, We the Subscribers, do each of Us for himself, become obliged for the Payment of the respective Sums severally Subscribed by Us, subject to the Rules, Conditions and Constitutions of the said Company.

Extracted out of the Books of the said Company, by me

JOHN TARVER.

ROD. MACKENZIE.

23 July, 1708.

THE Court of Directors of the Company of *Scotland Trading to No III. Africa and the Indies*, do hereby Constitute and Appoint Messieurs *James Smith* and *James Campbel* of *London* Merchants and Directors of this Company, to execute, do and perform all and every Part of the following Instructions, for and in behalf of this Company, and do hereby declare, that all Matters or Things agreed, done and concluded upon by them, with Relation and pursuant to the said Instructions, shall be Good and Valid, and be Binding and Obliging to this Company.

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GENTLEMEN,

WHEN you come to *London*, you are to repair to Mr. *James Foulis*, to know whether he intends to hold his Subscription in this Company; and if so, you are, jointly with him the said Mr. *James Foulis*, who in that Case is equally Impower'd with you, to execute and perform the following Instructions: But if he Decline being any further Concern'd therein, you shall then, and in that Case, receive from the said Mr. *James Foulis* all such Sum and Sums of Money belonging to this Company, as he hath now in his Hands; and you shall give unto him, or the Subscribers, or the respective Proprietors thereof, such sufficient Receipt, for the use of this Company, as shall be needful.

You shall use the most speedy and effectual Means to receive the first Payments of such of the Subscribers at *London*, as are willing to hold and continue their Subscriptions to this Company, and take the Answers of such as are unwilling to be concern'd therein, and return an Account thereof to this Court, that their Subscriptions may be disposed of otherwise.

You shall nominate one or more fit and sufficient Persons to this Court, in order to have them Constituted your Assistants in the Premises.

You shall keep regular and fair Accompts of the Money you receive, and of all your Transactions for the Company, and transmit the same, from time to time, to the Committee of Trade of this Company.

You are to observe all such further Rules and Instructions, as to you shall be transmitted from time to time, by the Committee of Trade of this Company.

To Messieurs James Smith
and James Campbel, Directors
of the said Company.

Done, Concluded, and Agreed upon in
a Court of Directors at *Edinburgh* 23^d.
Day of *June*, 1706.

Extracted out of the Books of the said Company,

JOHN TARVER.

by me,

ROD. MACKENZIE.

Edin. 23 *July*, 1708.

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GENTLEMEN,

London, 22d July, 1696.

INclos'd please receive an Account of what past at a Meeting be- No IV
twixt sundry of the *English* Subscribers and us: Several others
were advertised but did not come; we shall endeavour to have the
next Meeting as full as may be; tho' we must act with all Privacy
and Prudence: If any of the Subscribers continue, they will publick-
ly decline, and take their own way, before the 10th of *August*, to remit
their first Payment. Mr. *James Foulis* is to return Answer to the
Company's Letter, under cover to Sir *Archibald Muir*, this Post;
but hath given us as yet no particular Account; only in general, That
nothing is left in his Hands. Which with tender of due Respects, is
the needful at present from,

Gentlemen,

To the Committee of Foreign
Trade, &c. at Edinburgh.

Your most humble Servants,

JAMES CAMPBEL.

JAMES SMITH.

London, 22d July, 1696.

AT at Meeting of sundry *English* Subscribers to the *Scots Indian*
Company, by the Appointment of Messieurs *James Smith* and
James Campbel.

Mr. *Campbel* acquainted the Gentlemen with the Company's Honour-
able Respect towards them, and their Willingness to continue them
as Members of their Society, upon the Terms proposed in the printed
Advertisement then delivered in, ordering the first Payment to be
made before the 10th of *August* next.

The Company's Instructions to Messieurs *Smith* and *Campbel*, was
laid before them and read.

The Gentlemen unanimously acknowledged the Company's Favour
in making them so fair an Offer, protesting their sincere Affection to
the Undertaking; but believed, in their Opinion, that it was not safe
for any residing in *England* to be concerned: Therefore declared their
Resolutions to relinquish their Subscriptions to the said Company;
and that it is also the Resolutions of the other Subscribers, to whom
they did intimate the Company's Proposal.

Mr. *James Foulis* declared, That all the Mony and Notes for-
merly deposited in his Hands, were some time ago returned to the
Owners. Mes-

Messieurs *Smith* and *Campbel* desired the Gentlemen to consider further (if they pleased) of the Matter, until *Monday* next at seven of the Clock at Night, when they would again attend at the same Place, and to Advertise such others of the Subscribers as they are acquainted with, of the next Meeting, which they promised to do; mean time, Messieurs *Smith* and *Campbel* are daily to be spoken with, before the 10th of *August*, at *Moncreiff's* Coffee-house, at Three of the Clock in the Afternoon.

The Gentlemen intreated, That the most secret Way might be used in Discouraging any of the Subscribers on that Subject.

Printed Advertisements, ordering the first Payments before the 10th of *August*, were deliver'd to these Gentlemen, who promis'd carefully to shew the same unto the other Subscribers.

And then Adjourn'd 'till *Monday* next at Seven a-Clock at Night.

GENTLEMEN,

London, 28th Day of *July*, 1696.

OUR last to you was of the 22d current (to which refers) since are favour'd with none of yours. According to Appointment formerly advised of, did Yesterday meet some of the *English* Subscribers, who gave us their Determinate Answer in that Matter, which is the same the others gave before. The want of a Copy of their Subscription-Book is a Disadvantage to us; for we can have no List of their Names here, else would have spoken to each of them particularly. Some here are of Opinion, the Company ought to publish an Advertisement in some of the News Papers on this Occasion: Others urge, that all manner of publick Notice may be evited, lest it may irritate. We leave it to you, who are the more competent Judges, what may be necessary to exoner the Company, so as such, who do now decline, shall have no Pretence of a Demand, when you have made successful Progress in Business.

We shall continue to advise what may be of use, as Occasion requires; mean time remain with all due Respects,

Gentlemen, Your most humble Servants,

JAMES CAMPBEL,
JAMES SMITH.

Extracted out of the Books of the said Company, by me,

JOHN TARVER,

ROD. MACKENZIE.
23d *July*, 1708.

At

At a Court of Directors of the Company of Scotland, Trading to Africa and the Indies holden at Edinburgh, the 9th Day of July, 1696.

RESOLVED, That if any of the Subscribers of the said Compa- No. V.
ny shall neglect to pay the first Quarter part of their Subscriptions, until the 10th Day of *August*, that then, and from thence forward, the Share of Stock belonging to such Person or Persons, shall either be pursued for according to Law, or transferred and disposed of by the said Court, to such as will adventure and pay the Sum or Sums required, at the Pleasure of the said Court of Directors.

Ditto, the 3d Day of August, 1696.

THE Minutes of the last Court being read over, together with several Letters from Messieurs *James Smith* and *James Campbel*, concerning the Subscriptions in *England*.

Resolved, That the Printed Act of this Court of the 9th of *July* last, relating to that Matter, be laid before the Council-General, in order to be by them approved of, with such other Additions as may be thought fit.

At a Council-General of the Company of Scotland, Trading to Africa and the Indies, holden at Edinburgh the 3d of August, 1696.

THere was laid before the Council-General an Act of the Court of Directors of the 9th Day of *July* last, with relation to the closing up of the Books of Subscription, and forfeiting the Subscriptions of such Persons, as would either neglect or refuse to pay the first Fourth Part of their respective Subscriptions before the 10th Day of *August* instant; which being read and considered, was approved of and confirmed.

And the said Council-General doth hereby further Enact and declare, that the said Court of Directors may at any time after the said 10th Day of *August* instant; invest in themselves for the Company's use, the respective Shares and Interests of such Subscribers or Proprietors in the Joint-Stock of the Company, as shall either neglect or refuse to pay, or cause pay, the first Fourth Payment of the respective Sums, subscribed by them as aforesaid, before the said 10th Day of *August*; and that upon such Investment, the said Court of Di-

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rectors,

rectors, or any appointed by them for that intent, may therefore transfer the several Shares and Interests not paid as aforesaid, to such as, by advancing the several Sums required, shall become Proprietors thereof.

Extracted out of the Books of the said Company, by me

JOHN TARVER.

ROD. MACKENZIE.

23d July, 1708.

NOVI. **T**HE Court of Directors of the Company of Scotland Trading to *Africa* and the *Indies*, do hereby Nominate, Constitute, and Depute the Honourable *John Erskin*, Son to *David Lord Cardoss*, and Governor of *Stirling-Castle*, *John Haldan*, Baron of *Gleneagles*, and Messieurs *William Paterson* and *James Smith*, Merchants, Directors of the said Company, to be true and undoubted Deputies and Representatives of the said Court, for the purposes hereafter mentioned, with full Power and Authority to the said *John Erskin*, *John Haldan*, *William Paterson* and *James Smith*, to Assign and Transfer any Sum or Sums not exceeding two hundred thousand Pounds Sterling of the Joint-Stock of the said Company, vested in the said Court of Directors, unto such Foreign Merchants, Bodies Politick or Corporate, or others, as they shall judge to be most useful and serviceable to the Interest of the said Company; and to receive for the Use and Behoof of the said Company, the first Fourth Part of such Sum or Sums, as shall be Transferr'd by the said Deputies, as aforesaid. And for the better Establishment, and greater Solemnity hereof, the said Court of Directors do hereby Ordain and Appoint Extracts of these Presents, as well in *Latin* as in *English*, to be made by the Secretary of the said Court, and that the Seal of the said Company be affix'd thereunto.

*Done in a Court of Directors at Edinburgh,
the Sixteenth Day of September, One
Thousand Six Hundred and Ninety Six.*

Extracted out of the Books of the said Company, by me,

JOHN TARVER.

ROD. MACKENZIE.

23d July, 1708.

At

*At a Court of Directors of the Company of Scotland Trading to Africa
and the Indies, at Edinburgh, the 6th Day of October, 1696.*

THE Court considering the great Expence that *William Paterson*, one No. VII.
of the Directors of the said Company, has been at, for several
Years past, in making valuable Discoveries of Commerce and Navi-
gation to both the *Indies*; and he having delivered in several curious
Manuscript-Books, Maps, Journals, and other Papers of Commerce
relating thereto, henceforth to be appropriated to the Company's Use:
And having further evidenced his Affection to his Native Country,
by his relinquishing *England*, and any profitable Establishments he
had, or might at present have in that Kingdom, to his evident Da-
mage and Loss. Therefore the said Court of Directors do hereby al-
low the said *William Paterson* to Transfer and dispose of the Sum of
Fifteen Thousand Pounds *Sterling* of the Subscriptions now vested in
this Court of Directors, that is to say, of the Eighty Five Thousand
Pounds of such *English* Subscriptions as are not yet disposed of by this
Court, and to take and apply to his own proper Use, the first Quar-
ter Payment thereof, extending to the Sum of Three Thousand Se-
ven Hundred and Fifty Pounds *Sterling*, together also with the like
further Sum of Three Thousand Seven Hundred and Fifty Pounds
Sterling, being the first Quarter-part of the Sums Subscrib'd by him
the said *William Paterson*, and Messieurs *James Smith*, *Daniel Lodge*,
James Campbel, and *Joseph Cohen D'Azevedo*, Merchants in *London*;
amounting in the whole to the Sum of Seven Thousand and Five
Hundred Pounds *Sterling*. And further, for his Merit in contriving
the Principal Designs, and Constancy in promoting the Service of
this Company; the said Court of Directors have resolved to take into
their further Consideration, what suitable Gratifications they will ap-
point for him out of the Subsequent Profits of their Trade; and Pro-
portionate the same to the Success thereof.

Resolved, That the Resolution above-written, be laid before the
Council-General of this Company at their next Meeting for their Ap-
probation, and that 'till then the same shall not be put in Execution,
nor take any Effect.

Extracted out of the Books of the said Company, by me,

JOHN TARVER.

ROD. MACKENZIE.

23d July, 1708.

ACT

ACT for a Company Trading to Africa and the Indies.

June 26. 1695.

Preamble

OUR SOVERAIGN LORD Taking into his Consideration; That by an Act past in this present Parliament, intituled, *Act for Encouraging of Forraign Trade*; his Majesty for the Improvement thereof, did with Advice and Consent of the Estates of Parliament, Statute and Declare, that Merchants more or fewer may Contract and enter into such Societies and Companies, for carrying on of Trade, as to any Subject of Goods or Merchandise to whatsoever Kingdoms, Countries, or Parts of the World not being in War with his Majesty, where Trade is in use to be, or may be followed, and particularly beside the Kingdoms and Countries of *Europe*, to the East and West-*Indies*, the *Streights*, and to Trade in the *Mediterranean*, or upon the Coast of *Africa*, or in the *Northern* Parts, or else where as above: Which Societies and Companies being Contracted and entered into, upon the Terms, and in the usual manner as such Companies are Set up, and in use in other Parts, consistent always with the Laws of this Kingdom. His Majesty with Consent foresaid, did Allow and Approve, giving and granting to them, and each of them, all Powers, Rights and Privileges, as to their Persons, Rules and Orders that by the Laws are given to Companies allowed to be Erected for Manufactories. And His Majesty for their greater Encouragement, did promise to give to these Companies, and each of them, his Letters-Patent under the Greal Seal, confirming to them the whole foresaid Powers and Privileges, with what other Encouragement his Majesty should judge needful, as the foresaid Act of Parliament at more length Bears. And his Majesty understanding that several Persons, as well Forraigners as Natives of this Kingdom, are willing to engage themselves with great Sums of Mony in an *American*, *Affrican* and *Indian* Trade, to be exercised in and from this Kingdom, it Inabled and Incouraged thereunto by the Concessions, Powers and Privileges needful and usual in such Cases. Therefore, and in pursuance of the foresaid Act of Parliament, his Majesty with Advice and Consent of the saids Estates of Parliament; doth hereby make and constitute *John Lord Belhaven*, *Adam Cockburn* of *Ormistoun*, Lord Justice Clerk, Mr. *Francis Montgomery* of *Giffen*, Sir *John Maxwell* of *Pollock*, Sir *Robert Chiesly* present Provost of *Edinburgh*, *John Swinton*

Swinton of that ilk, George Clerk late Baillie of Edinburgh, Mr. Robert Black-wood, and James Balfour Merchants in Edinburgh, and John Corfs Merchant in Glasgow, William Paterson, James Foulis, David Nairn, Thomas Deans Esqs; James Chiefly, James Smith, Thomas Couis, Hugh Frazer, Joseph Cohen D' Axevedo, and Walter Stuart Merchants in London, with such others as shall join with them within the space of twelve Months after the first Day of *August* next, and all others, whom the foresaid Persons and these joined with them, major part of them being assembled, shall admit and join into their Joint-Stock and Trade, who shall all be Repute, as if herein originally insert to be one Body Incorporate, and a free Incorporation, with perpetual Succession, by the Name of *The COMPANY of SCOTLAND Trading to Africa and the Indies: Providing always, Likeas,* it is hereby in the first place provided, that of the Fond or Capital Stock that shall be agreed to, be Advanced and Employed by the foresaid Undertakers and their Co-partners; The Half at least shall be Appointed and Allotted for *Scots* Men within this Kingdom, who shall Enter and Subscribe to the said Company, before the first Day of *August*, One Thousand Six Hundred and Ninety Six Years: And if it shall happen, that *Scots* Men living within this Kingdom, shall not betwixt and the foresaid Term, subscribe for, and make up the equal Half of the said Fond or Capital Stock; then and in that case allannerly, it shall be, and is hereby allowed to *Scots* Men residing Abroad, or to Forraigners, to come in, Subscribe, and to be assumed for the Superplus of the said Half, and no otherways: *Likeas,* the *Quota* of every Mans part of the said Stock, whereupon he shall be capable to enter into the said Company, whether he be Native or Forraigner, shall be for the least one Hundred *lib. Sterl.* And for the Highest or Greatest three Thousand *lib. Sterl.* and no more directly nor indirectly in any sort; With Power to the said Company to have a common Seal, and to Alter and Renew the same at their Pleasure, with Advice always of the Lyon King at Arms; As also to Plead and Sue, and be Sued; and to purchase, Acquire, Possess, and enjoy Lordships, Lands, Tenements, or other Estate Real or Personal, of whatsoever Nature or Quality, and to dispose upon and alienate the same, or any part thereof at their Pleasure, and that by Transfers and Assignment, made and entered in their Books and Records, without any other Formality of Law; *Providing always,* that such Shares as are first subscribed for, by *Scots* Men within this Kingdom, shall not be allowable to any other than *Scots* Men living within this Kingdom; That the foresaid Transfers and Convoyances as to
Lands;

Lands and other real Estate (when made of these only and a part) be perfected according to the Laws of this Kingdom anent the Conveyance of Lands and Real-Rights, with Power likewise to the foresaid Company, by Subscriptions or otherways, as they shall think fit to raise a Joint-Stock or Capital Fond of such a Sum or Sums of Money, and under, and subject unto such Rules, Conditions and Qualifications, as by the foresaid Company, or major part of them when assembled shall be Limited and Appointed to begin, carry on and support their intended Trade of Navigation, and whatever may contribute to the Advancement thereof. *And it is hereby Declared,* That the said Joint-Stock or Capital Fond, or any part thereof, or any Estate Real or Personal, Ships, Goods, or other Effects of and belonging to the said Company, shall not be liable to any manner of Confiscation, Seizure, Fore-faulture, Attachment, Arrest or Restraint, for and by Reason of any Embargo, breach of Peace, Letters of Mark or Repisal, Declaration of War with any Forraign Prince, Potentate or State, or upon any other account or pretence whatsoever; But shall only be Transferrable, Assignable, or Alienable in such way and manner, and in such Parts and Portions, and under such Restriction, Rules and Conditions, as the said Company shall by Writing in, and upon their Books, Records and Registers direct and appoint, and these Transfers and Assignments only, and no other shall convoy the Right and Property, in and to the said Joint-Stock, and Capital Fond and Effects thereof above-mentioned, or any part of the samen, excepting always as is above excepted, And that the Creditors of any particular Member of the Company may by their real Diligence affect the share of the Profit falling and pertaining to the Debitor, without having any further Right or Power of the Debtors Part and Interest in the Stock or Capital Fond, otherways than is above-appointed, And with this expresse Provision, that whatever Charges the Company may be put to by the contending of any of their Members deceased, or of their Assigney, Creditors, or any other Persons in their Rights: The Company shall have Retention of their Charges and Expenses in the first Place, And the Books, Records and Registers of the said Company, or Authentick Abstracts, or Extracts out of the same, are hereby Declared to be good and sufficient for Evidents in all Courts of Judicator, and elsewhere, And his Majesty with Advice foresaid, farther Statuts and Declares, that the said *John Lord Belhaven, Adam Cockburn of Ormiston, Lord Justice Clerk, Mr. Francis Montgomery of Giffen, Sir John Maxwell of Pollock, Sir Robert Cheisly,* present Provost of Edinburgh, *John Swintoun,*

Swintoun of that ilk, George Clerk late Baillie of Edinburgh, Mr. Robert Black-wood, and James Balfour Merchants in Edinburgh, and John Corfs Merchant in Glasgow, William Paterson, James Foulis, David Nairn, Thomas Deans, Esquires, James Cheisly, James Smith, Thomas Coutts, Hugh Frazer, Joseph Cohen D'Azevedo, and Walter Stuart, Merchants in London, and others to be joined with, or assumed by them in manner above-mentioned, and their Successors, or major part of them assembled in the said Company, shall and may in all time-coming by the Plurality of Votes, Agree, Make, Constitute and Ordain all such other Rules, Ordinances and Constitutions, as may be needful for the better Government and Improvement of their Joint-Stock, or Capital Fond in all Matters and Things relating thereunto: To which Rules, Ordinances, and Constitutions, all Persons belonging to the said Company, as well Directors as Members thereof, Governours, or other Officers Civil or Military, or others whatsoever, shall be subject, and hereby concluded: As also to Administat and take Oaths *de fidei*, and others requisite to the Management of the foresaid Stock and Company. And the said Company is hereby impowered to Equip, Fit, set Out, Fraught, and Navigat their own, or hired Ships, in such manner as they shall think fit, and that for the space of ten Years from the Date hereof, notwithstanding of the Act of Parliament one thousand six hundred and sixty one Years, Intituled, *Act for Encouraging Shipping and Navigation*, wherewith his Majesty with Consent foresaid dispenses for the said time allanerly, in favours of the said Company, and that from any of the Ports or Places of this Kingdom, (or, from any other Parts or Places in Amity, or not in Hostility with his Majesty in Warlike or other manner, to any Lands, Islands, Countreys, or Places in *Asia*, *Africa*, or *America*, and there to Plant Colonies, build Cities, Towns or Forts in or upon the places not Inhabited, or in or upon any other Place, by consent of the Natives and Inhabitants thereof, and not posselt by any *European* Sovereign, Potentate, Prince, or State, and to provide and furnish the foresaid Places, Cities, Towns, or Forts with Magazines, Ordpances, Arms, Weapons, Ammunition, and Stores of War, and by force of Arms to defend their Trade and Navigation, Colonies, Cities, Towns, Forts, and Plantations, and other their Effects whatsoever; as also to make Reprisals, and to seek and take Reparation of Damage done by Sea, or by Land, and to make and conclude Treaties of Peace, and Commerce with the Sovereigns, Princes, Estates, Rulers, Governours, or Proprietors of the foresaid Lands, Islands, Countreys, or places

in *Asia*, *Affrica*, or *America*. *Providing always, Likeas*, It is hereby specially provided, that all Ships employed by them shall return to this Kingdom with their Effects, under the pain of Confiscation, Forfaulture and Seizure of the Ship and Goods, in case of breaking of Bulk before their Return, excepting the case of Necessity, for Preserving the Ship, Company and Loadning allanerly. And his Majesty with consent foresaid, doth farther Statute and Ordain, that none of the Liedges of this Kingdom shall or may Trade or Navigate to any Lands, Islands, Countreys or Places in *Asia*, or *Affrica*, in any time hereafter, or in *America*, for, and during the space of thirty one Years, to be counted from the passing of this present *Act*, without Licence and Permission in writing from the said Company: Certifying all such as shall do in the contrair hereof, that they shall Forfault and Amit the third part of the Ship or Ships, and of the Cargo or Cargoes therein employed, or the value thereof, the one half to his Majesty as Escheat, and the other half to the use and benefit of the said Company: For the effectual execution whereof, it shall be lawful to the said Company, or any employed by them, to seize the saids Ships and Goods in any place of *Asia*, or *Affrica*, or at Sea upon the Coasts of *Asia*, or *Affrica*, upon the transgression foresaid, by force of Arms, and at their own Hand, and that without the hazard of incurring any Crime or Delinquency whatsoever on account of the said Seizure, or any thing necessarily done in Prosecution thereof, excepting always, and without prejudice to any of the Subjects of this Kingdom to Trade and Navigat, During the said space to any part of *America*, where the Colonies, Plantations, or Possessions of the said Company shall not be settled. And it is further hereby Enacted, that the said Company shall have the free and absolute Right and Property, only relieving and holding of his Majesty, and his Successors in Sovereignty, for the only Acknowledgment of their Allegiance, and paying Yearly a Hogihead of Tobacco, in name of Blench-duty, if required allanerly, in, and to all such Lands, Islands, Colonies, Cities, Towns, Forts, and Plantations that they shall come to Establish or Possess in manner foresaid; as also to all manner of Treasures, Wealth, Riches, Profits, Mines, Minerals, Fishings, with the whole Product and Benefit thereof, as well under as above the Ground, and as well in Rivers and Seas, as in the Lands thereto belonging, or from or by reason of the same in any sort, together with the Right of Government, and Admiralty thereof; and that the said Company may by vertue hereof, grant and delegat such Rights,

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Rights, Properties, Powers and Immunities, and permit and allow such sort of Trade Commerce and Navigation into their Plantations, Collonies, Cities, Towns, or Places of their Possession, as the said Company from time to time shall judge fit and convenient. With Power to them to impose and exact such Customs, and other Duties upon and from themselves, and others Trading with, and coming to the said Plantations, Cities, Towns, Places and Ports, and Harbours thereof, as the Company shall think needful for the Maintenance and other publick uses of the same, *Holding* always, and to hold the whole Premisses of his Majesty, and his Successors Kings of *Scotland*, as Sovereigns thereof, and paying only for the same their Acknowledgment and Allegiance with a Hogshead of Tobacco yearly, in name of Blench-duty if required, for all other Duty, Service, Claim or Demand whatsoever. With Power and Liberty to the said Company to Treat for, and to procure and purchase such Rights, Liberties, Priviledges, Exemptions and other Grants as may be convenient for supporting, promoting and enlarging their Trade and Navagation from any forraign Potentate or Prince whatsoever, in Amity with his Majesty; for which the general Treaties of Peace and Commerce betwixt his Majesty, and such Potentates, Princes, or States shall serve for sufficient Security, Warrant and Authority; and if contrair to the saids Rights, Liberties, Priviledges, Exemptions, Grants, or Agreements any of the Ships, Goods, Merchandise, Persons or other Effects whatsoever, belonging to the said Company, shall be stopt, detained, embazled, or away taken, or in any sort prejudged or damnified, his Majesty promises to interpose his Authority to have restitution, reparation and satisfaction made for the Damage done, and that upon the publick Charge, which his Majesty shal cause depurse, and lay out for that effect. And farder it is hereby Statute, that all Ships, Vessels, Merchandise, Goods and other Effects whatsoever belonging to the said Company, shall be free of all manner of Restraints, or Prohibitions, and of all Customs, Taxes, Cesses, Supplies, or other Duties Imposed, or to be imposed by Act of Parliament, or otherwise, for, and during the space of twenty one Years, excepting always the whole Duties of Tobacco and Sugar, that are not of the Growth of the Plantations of the said Company. And farder it is Enacted, that the said Company by Commission under their common Seal, or otherwise as they shall appoint, may make constitute all and every their Directors, Governors, and Commanders in Chief, and other Officers Civil or Military by Sea, or by

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Land;

Land; as likewise that the said Company may Inlist, Inroll, Agree and Retain all such Persons Subjects of this Kingdom, or others whatsoever, as shall be willing and consent to enter in their Service or Pay, providing always that they Uplift or Levy none within this Kingdom to be Soldiers, without Leave or Warrant first obtained from his Majesty, or the Lords of his Privy Council, over which Directors, Governours, Commanders in Chief, or other Officers Civil or Military, and others whatsoever in their Service and Pay, the Company shall have the Power, Command and Disposition both by Sea and Land. And it is farther Statute, That no Officer Civil or Military, or other Person whatsoever within this Kingdom, shall Impress, Entertain, Stop or Detain any of the said Members, Officers, Servants, or others whatsoever, of, or belonging to the Company; And in case the said Company, their Officers or Agents, shall find or understand any of their Members, Officers, Servants, or others aforesaid, to be Impressed, Stopped or Detained, they are hereby Authorized and Allowed to take hold of, and Release the foresaid Person Impressed or Stopped in any part of this Kingdom either by Land or Water; and all Magistrats and others, his Majesty's Officers Civil and Military, and all others are hereby required in their respective Stations, to be Aiding and Assisting to the said Company under the pain of being lyable to all the Loss, Damage, and Detriment of the said Company, by reason of the foresaid Persons their neglect. And farther that the said Company, whole Members, Officers, Servants, or others belonging thereto, shall be free, both in their Persons, Estates, and Goods Employed in the said Stock and Trade from all manner of Taxes, Cesses, Supplies, Excises, Quartering of Soldiers Transient or Local, or Levying of Soldiers, or other Impositions whatsoever, and that for and during the space of twenty one Years. And lastly, All Persons Concerned or to be Concerned in this Company, are hereby Declared to be free Denizons of this Kingdom, and that they with all that shall Settle to Inhabit, or be Born in any of the foresaid Plantations, Collonies, Cities, Towns, Factories, and other Places that shall be Purchast and Possess by the said Company, shall be Repute as Natives of this Kingdom, and have the Privileges thereof. And generally without Prejudice of the Specialities foresaid, his Majesty with Consent foresaid, Gives and Grants to the said Company, all Power, Rights and Privileges, as to their Persons, Rules, Orders, Estates Goods and Effects whatsoever, that by the Laws are given to Companies Allowed to be Erected for Manufactories, or that are usually

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given in any other Civil Kingdom, or Common-Wealth, to any Company there Erected for Trade and Commerce. And for the better Establishment and greater Solemnity of this Act and Gift in Favour of the said Company ; his Majesty doth farther Ordain, Letters Patent to be expedite hereupon, containing the whole Premises under the Great Seal of this Kingdom, for doing whereof *Per Saltum*, Thir Presents shall be sufficient Warrant both to the Director and Chancellor, or Keeper of the Great Seal, as use is in like Cases.

Extracted furth of the Records of Parliament, by

TARBAT, Cls. Regist.

N. B. The Letters Patent, marked No. IX. in the Depositions, are not here inserted, as being much the same in Latin with the above Act of Parliament, which ought to have been marked No. XII. in the Margen.

Mr. PATERSON's Account Current,
As stated in the Books of Account of the *Indian and African*
Company in Scotland.

WILLIAM PATERSON, Esq; Dr.			Contra Cr.		
1696 May 29.	To Cash as per Trading	l. s. d.	1696 May 7.	By John Lord Belhaven,	
	Ledger Folio 1. -----	15000 : 00 : 00		as per Subscription --	l. s. d.
August 1.	To Ditto -----	5000 : 00 : 00		Ledger Folio 708. ---	250 : 00 : 00
Sept. 19.	To Accompt of London		Sept. 12.	By Messrs. Stewart and	
	Exchange for two Bills			Campbell, as per Trading-	
	indors'd James Smith. -	985 : 00 : 00		Ledger. -----	4226 : 11 : 00
Octob. 6.	To 2 Bills on Vander-		Decr. 12.	By Isaac Blackwell - - -	10 : 00 : 00
	pott and Company ---	2000 : 00 : 00		- - - - - By George Walker ---	18 : 00 : 00
10.	To Bills indors'd him		22	By Mr. James Smith. -	16893 : 02 : 04
	and Mony paid. ---	2000 : 00 : 00	1697 Jan. 23.	By John Allan's Bill on	
Decr. 24.	To Mr. Daniel Lodge	382 : 18 : 03		Alexander Lang. ---	115 : 00 : 00
1697 May 22.	To Isaac Coffart he		May 22.	By Isaac Coffart for Bills	
	delivered. ---	52 : 00 : 00		delivered. ---	3025 : 00 : 00
1699 Jan. 7.	To Alexander Steven-			By his Charges Abroad	
	son for 233 Dollars			in Travelling to Holland	
	two Mk. Lupees. 3			and Hamburg with	
	Stivers, at 4 s. 10 d.			Col. Erskine and Glene-	
	per Dollar. ---	56 : 10 : 2 $\frac{1}{2}$		agles 253 Days, at 20 s.	
1701 Nov. 7.	To Mr. Hugh Frazer			per Diem. ---	253 : 00 : 00
	paid him. ---	50 : 00 : 00	1701 Nov. 7.	By Mr. Hugh Frazer for	
				20 Shares of Hampsted	
				Water-works per Wil-	
				liam Woodrop's Letter	
				of Attorney as per ditto	
				Frazer's Accompt. ---	250 : 00 : 00
				Allowed him as per	
				Order to Mr. Hugh	
				Frazer. ---	50 : 00 : 00
				Ballance resting. ---	435 : 15 : 1 $\frac{1}{2}$
					l. 25526 : 08 : 5 $\frac{1}{3}$

*To the Right Honourable, the Lord Chief Baron, and Barons
of the Court of Exchequer in Scotland.*

IN Obedience to your Lordships Order of the Eighteenth of June last, We James Dunlop and John Symmer Accomptants to the *Indian and African Company of Scotland*, do hereby Certify and Declare, That William Paterson, Esq; his Accompt of Debt and Credit as above-written, is the exact Double of his Accompt, as the same is stated in the Books of the said Company; by which Accompt he is resting a Balance of Four Hundred Thirty Five Pounds Fifteen Shillings One and One Third Penny Sterling. In witness whereof, We have Subscrib'd these Presents with our Hands at *Edinburgh* the Second Day of *July* One Thousand Seven Hundred and Eight Years.

JAMES DUNLOP Accomptant.
JOHN SYMMER Accomptant.

James Dunlop and John Symmer, Accomptants to the *Indian and African Company of Scotland*, make Oath, that the above Accompt, signed and given in by them the 2d of *July* last, is the exact Double or Extract of *William Paterfon*, Esq; his Accompt with the said Company, as the same is stated in the Books of Accompts of that Company, and that there is no more chargeable upon him by the said Company, to the best of their Knowledge.

Jurat 5 *August*,
1708. *Coram me*
A. Maitland.

JAMES DUNLOP Accomptant.
JOHN SYMMER Accomptant.

Here followeth an unsigned Paper without Date, Direction or Place, offered against Mr. Paterfon's Claim, intituled,

Mr. Paterfon's Claim upon the Equivalent of Scotland Examined and Answered.

THE Parliament of *Scotland* past an Act in the Year 1695, constituting and appointing certain Persons therein named, together with such as they should admit into their Society, to be one Body incorporate by the Name of, *The Company of Scotland Trading to Africa and the Indies*, and granting Power to the said Company by Subscriptions, or otherwise as they should think fit, to raise a Joint-Stock or Capital Fund of such Sum or Sums of Money, and subject to such Rules, Conditions, and Qualifications as by the aforesaid Company, or major part of them when assembled, should be limited and appointed to begin, carry on, and support their intended Trade of Navigation, and whatsoever might contribute to the Advancement thereof. The Persons named in the Act of Parliament, for taking Subscriptions for the behoof of the Company were Twenty in Number, Ten of whom resided in *Scotland*, and Ten in *England*; three of the Nominees who lived in *Scotland*, having gone to *London*, to concert Measures with the other Nominees who resided there for carrying on the Affairs of the Company, they opened Books for taking Subscriptions in *England*, and in the Preamble to the said Subscriptions they declared among other things, that the Joint-Stock or Capital Fund should consist of 600000 Sterling, and that *Mr. Paterfon* and others concerned with him having been at great Pains and Expence, in making several considerable Discoveries of Trade and Improvements, in and to both the Indies,

Indies, the said Mr. Paterfon should out of the first Payment have and receive two per Cent. of the Money to be Subscribed in the said Capital Fund; as also three per Cent out of the Profits of the said Fund for the space of twenty one Years, which should be redeemable for two per Cent. more of the said Capital Fund, any time in five Years.

Upon this pretended Grant of the Major part of the Nominees met at *London* the sixth of *November*, 1695, Mr. Paterfon founds his Pretensions to twelve thousand Pound, as being after the rate of two per Cent. for the six hundred thousand Pounds that were to be Subscribed to the Capital-Stock, and over and above to three per Cent. out of all the Profits that should be made of the said Principal Fund.

How insufficient and groundless Mr. Paterfon's Pretensions are in this matter, will clearly appear from the following Considerations.

I. That the Nominees appointed by Act of Parliament to take Subscriptions, had no Power to dispose of any part of the Stock of the Company, or to make any Rules or Orders that should be binding on the Members of the Company.

II. That the Preamble to the Subscription taken in *England*, on which Mr. Paterfon founds his Grant, if it be of any force at all, could only bind those who Subscribed in *England*, and consequently could not be of any Avail to Mr. Paterfon, seeing all the *English* Subscribers withdrew their Subscription before ever the Company was formed.

III. That the *African* Company in *Scotland*, after it was regularly formed into a Society, never looked upon themselves to be any ways indebted to Mr. Paterfon, on account of the pretended Grant made him by the Nominees assembled at *London*, nor did they ever give him any Credit in their Books on that score.

IV. That Mr. Paterfon himself never insisted on any such Grant in the Applications which he made to the Company for a Reward of the Services which he pretended to have rendered them, but left it wholly to their own Generosity to Recomence him in what manner they should think fit.

V. That Mr. Paterfon, instead of being a Creditor to the *African* Company, as he pretends, appears to be Indebted to them in a Sum exceeding seventeen thousand Pounds; and consequently, instead of claiming any thing out of the Equivalent, ought to be called upon by

by the Commissioners of the Equivalent for the Sums which he owes to the said Company.

First, The Persons named in the Act of Parliament, had no Power to dispose of any part of the Stock of the Company, or to make any Regulation to bind all the Members of the Company; the Design of their Nomination was only to take in Subscriptions, and to aggregate new Members, in order to form the Company that was to carry on this Foreign Trade, and to do this they had the space of thirteen Months allowed them, *viz.* to the first of *August*, 1696. When this time was expired, and the Subscription-Books shut up, the Company was then intirely formed into a Body, which consisted of all the Proprietors of the Money Subscribed; these Proprietors being all met together, had Power to appoint Courts and Committees, to make Orders and Regulations for the Management of their common concerns, and all the Members were obliged to submit to such Directions as should be agreed to by a Majority of them; and accordingly when all the Subscriptions were finished, a general Meeting of all the Proprietors was called, where, by a Majority of Voices, they settled their Committees, and made Rules and Constitutions for the Management of the Stock and Trade of the Company: It was then, and not before, that they begun to Act as a Company, and that their Managers had Power from their Constituents to make Bargains, and to Contract for them. Whatever the Nominees did before the Subscriptions were taken, could bind no Body but themselves, because they had no Body to represent 'till Persons had once Subscribed, and the Company was regularly formed. The Company, as it was constituted by the Act of Parliament, was to consist not barely of the twenty Persons named in the Act, but of them, together with others who should join with them by Subscription before the first of *August*, 1696. It was to all the Subscribers in general that the Parliament granted the Authority and Privileges of a Company, and not to twenty Men alone; and if the twenty Persons who were named in the Act of Parliament to be as it were a Foundation of the Company, to which other Persons might Associate themselves by Subscription, in order to perfect and accomplish the Society, did pretend to act as a Company, or to prescribe any Laws or Rules before the Society was perfected, they usurped a Power which did not belong to them, and what they did was *Ipso facto* Null, and Void. It was never in the least intended in the Erection of the Company to lodge any such Power in the Hands of the Nominees, as that they might dispose of
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the Capital-Stock, and prescribe Restrictions and Limitations to the Trade of the Company, as they should think fit. Every Subscriber Subscribed his Name with this Confidence and Assurance, that he should have his Vote in the disposal of it, either in Person or by Proxy: And that this was the general Sense and Meaning of all the Proprietors, appears from the eighth Constitution of the Company, whereby it is expressly Provided, *That no Dividend of Profits, or any part of the Joint-Stock, should be disposed of without the Consent of the General Council.* Besides, the Parliament of *Scotland* was so Cautious and Provident to settle the Direction and Management of the Affairs of the Company in the Hands of *Scotch* residing within the Kingdom of *Scotland*, that it directed, that one half of the Capital Stock should be Subscribed by Inhabitants of *Scotland*, and should not be alienable to any Foreigners whatsoever, nay, not so much as to Natives of *Scotland*, who were settled in other Countries. Can it be imagin'd that the Parliament of *Scotland*, which took this Precaution to lodge the Management of the Affairs of the Company in the Hands of the Inhabitants of that Kingdom, as all other Nations do in the like cases, ever intended to give Power to eight or ten *Scotch* Men, Merchants in *London*, to dispose of any part of the Stock of the Company, and that before it had any Stock, and before the Company was fully formed, when the Parliament would not so much as allow the Proprietors themselves of the Monies Subscribed in *Scotland*, to Alienate or Dispose of any part of them to Persons living out of the Kingdom? What a strange Infatuation must it be in a Man, to fancy that ten of the Nominees residing out of *Scotland*, should have any Power to give away out of the *Scotch* Subscriptions, in which they had no manner of interest or concern, four *per Cent.* to Mr. *Paterson* and his Friends living at *London*? The Design of inserting the Names of those Gentlemen in the Act of Parliament, was only to facilitate the taking of Subscriptions at *London*, and if they took upon them to make any Contracts in the Name of the Company before it was formed, they exceeded their Commission, and assumed to themselves a Power which was never intended to be lodged in them, neither by the Parliament of *Scotland*, nor the Company; and whatever Contract or Bargain they should pretend to make in the Name of the Company, could be no ways binding on the Members of the Company.

Secondly, Since therefore the Nominees residing in *London* had no Power to act any further in the Company's Concerns but to take in Subscriptions, whatever Contracts that may have made with Mr. *Paterson*,

erson, it could never affect the Company; and if it were allowed to have any effect at all, it would be only on the Subscriptions that were taken in *England*, seeing all that can be said for it is, that the *English* Subscribers did all of them agree to this Condition. Whatever the *English* Subscribers may have agreed to, yet they did not pretend that it should be binding on any Body but themselves, for the words of their Preamble are; *We the Subscribers do each of us for himself, and not one for another, become obliged, &c.* But even in this Case all the whole Number of *English* Subscribers, and not the *English* Nominees alone, had particularly and expressly stipulated this with Mr. *Paterfon*, such an Agreement could be of no force to bind the Company, till it had been ratified and approved of by the Company in *Scotland*. For the Company might have refused the *English* Subscriptions, that were thus clogg'd with any such exorbitant Grant. The Subscribers in *Scotland* might have had very good Ground to remonstrate against it, and to ask why the *English* Subscribers should be allowed to give away two *per Cent* out of the Capital Stock, and three out of the Profits, whilst they in *Scotland* subscribed and paid in their Monies, without stipulating any Terms or Conditions, leaving the Disposal and Management of all to the Company when fully assembled, as is usual in the Erection of all Companies whatsoever. But altho' this Claim of Mr. *Paterfon*'s had been good against the Subscriptions taken in *England*, which it is Plain it could not unless the Agreement made between the *English* Nominees and Mr. *Paterfon* had been ratified by the Company in *Scotland*, yet it entirely ceases, because none of the Subscriptions taken in *England* were ever paid into the Company, or brought to any Account on the Company's Books. The Discouragement which the Company met with, made all the *English* Subscribers withdraw their Subscriptions, so that their Subscriptions vanishing, the Clog with which they were burdened did likewise vanish of course.

Thirdly, The *English* Subscribers having all of them withdrawn their Subscriptions, which amounted to 300000 *l.* the People of *Scotland* found themselves necessitated to go on with their Undertaking with what Stock they could raise in their own Kingdom, since they saw that they were to expect no Assistance from their Neighbours; accordingly they opened their Books at *Edinburgh*, on the 26th Day of *February*, 1696, in order to take Subscriptions, and the Preamble to their Subscriptions is drawn up in these words.

Pursuant to an Act of Parliament, entituled, an Act for a Company Trading to Africa and the Indies, we the Subscribers do each of us for himself become obliged for the Payment of the respective Sums severally subscribed by us, subject to the Rules, Conditions and Constitutions of the said Company.

Is there any thing in these words, by vertue of which Mr. Pater-son can claim any thing from the *African* Company? And yet if he have any Demand at all, it must be founded on this Preamble, it must be against the Persons who subscribed to it, for they alone did constitute the Company, it was of their Subscriptions alone that the Joint-Stock of the said Company was composed. Have the Subscribers here made any Bargain with Mr. Pater-son, have they promised him two per Cent out of their Capital-Stock, and three out of their Profits? Yes, says Mr. Pater-son, *the Subscribers in Scotland have subjected their Subscription Money to the Rules, Conditions and Constitutions of the Company, and the Company (that is) the Nominees at London) agreed to give him certain Shares out of the Stock and Profits.* That the Subscribers did subject their Monies to the Rules, Conditions and Constitutions of the Company is most certain. And so must all Subscribers do who Join in any Company whatsoever, they must agree that the Monies which they contribute, shall be applied to such Uses for the Interest and Benefit of the Company, as the major part of the Company shall direct. But do the Subscribers in *Scotland* agree, by that Clause of the Preamble, That the Nominees in *Scotland* should have Power to dispose of their Money as they should think fit? No; such a Power was never claimed by the Nomines in *Scotland*, and never intended them by the Subscribers; so that although Mr. Pater-son had made his Contract Expressly with the Nominees in *Scotland*, it could never have been of any force to bind the Members of the Company, unless it had been ratified by the Company after that it was regularly formed into a Body. If therefore the *Scotch* Nominees, who took in all the Subscriptions of which the Stock of the Company was composed, could not burden the Joint-Stock with any such Contract as Mr. Pater-son pretends; nay further, if the Company it self when fully constituted, had not Power to alienate any part of their Stock to Persons residing without the Kingdom, how is it possible for any Man to dream that the *English* Nominees, who had no hand in forming the Stock of the Company, who procured no Contributions towards it, made none of their Subscriptions effectual, should be allowed to burden that Stock, which belonged wholly to other Persons,

sons, and which they had no hand in collecting? The Nominees in *Scotland* who took in Subscriptions, they were so far from thinking themselves tyed up by any thing transacted by the Nominees at *London*, that they acted in a direct Opposition to what had been there resolved on. The *English* Subscribers having withdrawn their Subscriptions, and abandoned the Interests of the Company, the Managers in *Scotland* did not think themselves further obliged to Act in concert with the Nominees at *London*, and therefore, whereas it had been concerted at *London*, that only 300000 *l.* Sterling should be raised in *Scotland*, they took Subscriptions for Four hundred thousand Pounds, because they saw themselves reduced to carry on their Undertaking with their own proper Stock, and were not to expect any Assistance from *England*. Had the *English* Subscriptions gone on, and been made effectual, and if it had appeared to the Company that Mr. *Paterfon* had been any way instrumental in procuring Subscriptions in *England*, perhaps the Company might have been ready enough to reward his Services, but since the whole Stock of the Company was made up of the Subscriptions taken in *Scotland*, there does not seem to be the least Colour or Pretext for Mr. *Paterfon*'s Demand of a Gratification. Must the People of *Scotland* be obliged to gratify him, because he could do the Company no Service in *England*, because that he was not able to procure them one Subscription? and Mr. *Paterfon* himself does not pretend that there was any one in *Scotland* that subscribed on his Account, or by his Influence, and the Company was so far from thinking themselves indebted to Mr. *Paterfon* on the Account of any pretended Contract, which he had entered into with the Nominees at *London*, that they never made the least mention of it in the first Constitutions of the Company, which were made after all the Subscriptions were compleated in a full Assembly of all the Proprietors, neither did they ever give him any Credit in their Books on that Score.

Fourthly, Nay, Mr. *Paterfon* himself was so sensible, that he had no right to Demand any thing of the Company, by vertue of that pretended Contract with the *English* Nominees, that he made repeated Applications to the Directors of the Company, that they would be pleased to recompence his Services in what manner they should think fit; the Directors did at last, in Compliance with Mr. *Paterfon*'s desire, agree, that he should have the Sum of seven thousand five hundred Pounds, not out of the Company's Stock raised in *Scotland*, but out of the Subscriptions which he was impowered to take in *Holland* or other parts beyond Sea, and out of the Monies which he himself,

and some of his Friends at London had subscribed: Unless he could make these several Subscriptions effectual, he was to have nothing, and even altho' the Subscriptions should be made effectual, he was not to have this Sum, which the Directors allotted him, unless their Resolution were approved of by the General Council of the Company. Mr. *Paterfon* was present in the Court of Directors, as being one of their Number, when this Order was made, and did not pretend to find fault with it, nor to insist on any right by vertue of his Contract with the *English* Nominees. The Subscriptions on which the Directors had allotted the Payment of the Monies they intended as a Gratification to Mr. *Paterfon* were never made effectual, and the General Council refused to approve of the Order of the Directors in relation to the said Gratification, so that Mr. *Paterfon* could not pretend to any right by vertue of that Order of the Directors, which never had the final Sanction of the Company, for want of the Approbation of the General Council; and although the Grant had received the Approbation of the Council, yet it must have proved ineffectual, because the Condition on which it was made was never performed. When this Order of the Directors was laid before the Council General, in order to have their Appobation, it appeared to them that Mr. *Paterfon* had in his Hands 20000 *l.* of the Company's Mony, and therefore they thought it time enough to consider of a Gratification to him when he had once made up his Accompts for that Sum. Mr. *Paterfon* in his Accompt with the Company, states himself Creditor for 16893 *l.* 2 *s.* 4 *d.* which he had paid to Mr. *Smith* for the Company's Use. But he having paid this Mony without any Order from the Company, and to one who went off with it, and never made any Accompt, the Company still look'd upon Mr. *Paterfon* as chargeable with the Mony which he paid to Mr. *Smith*, as well as with the 435 *l.* 15 *s.* 1 *d.* which he acknowledged to be remaining in his Hands, as Balance due from him to the Company, so that if the Company found Mr. *Paterfon* to be in their Debt upwards of Seventeen Thousand Pounds, it was no wonder that the General Council should be of Opinion to put off the considering of a Gratification to him, till he should make up his Accompts with the Company. And that the General Council looked upon Mr. *Paterfon* to be considerably indebted to the Company, does clearly appear from their Journals, in which particular mention is made of the Persons who were appointed to treat with him, concerning the Measures he would propose for satisfying the Balance due by him to the Company.

Fifthly,

Fifthly, It appearing therefore that Mr. *Paterfon*, instead of being a Creditor, is rather a Debtor to the *African* Company of *Scotland*, he was no way entituled to claim any share of the Mony of the Equivalent, that was appropriated to pay off the Capital-Stock and Debts of the said Company, in order to reimburse the Proprietors and Creditors of the *African* Company out of the Monies of the Equivalent. The Directors of the Company were empowered by Act of Parliament to draw up Lists of the Names of the Proprietors of the Joint-Stock, and of the Creditors who had Debts owing to them by the Company; and a certain Sum, not exceeding 232884*l.* 5*s.* $\frac{2}{3}$ *d.* was allotted by Parliament for discharging the Capital-Stock, Interest, and Debts of the said Company. Mr. *Paterfon* finding himself left out of the List of the Creditors, made Application to the Directors to have his Name inserted; but they answered him, that since he was not stated as a Creditor in the Books of the Company, they could not warrantably insert him in their List; they were directed to go according to the Books of the Company, and they could not answer the charging the Company with a Debt which the Company themselves had never owned, and indeed which Mr. *Paterfon* himself had never claimed from the Company as a Debt. Besides, the Directors could not agree to Mr. *Paterfon*'s unreasonable Demands, without doing the greatest Injustice imaginable to the Proprietors of the Company. For if Mr. *Paterfon*'s Request had been granted, several of the Proprietors who had advanced their Mony, must have been necessarily excluded from their share of the Equivalent, since the Parliament allotted no more Mony to be paid to the *African* Company out of the Equivalent, but a certain determinate Sum not exceeding 232884*l.* 5*s.* $\frac{2}{3}$ *d.* which served barely to pay off the Subscribers of their Principal Mony, and Interest, and the Creditors who had advanced Mony or Effects to the Company. And I believe no Body will say, but these Persons had a right to be paid off in the first Place, before any Demands could take place for Gratifications. Mr. *Paterfon*, upon this Refusal of the Directors, applyed himself for Redress to the Parliament of *Great Britain* in the Year 1708, and the Parliament was pleased to direct the Judges of the Court of Exchequer in *Scotland* to hear and examine Mr. *Paterfon*'s Pretensions, to make a full and fair Representation thereof to her Majesty.

Which was indeed the properest course that could be taken to do Justice both to Mr. *Paterfon*, and to the *African* Company, against whom this Demand lay. His Claim was for a private Debt owing to

to him in *Scotland*, which was certainly to be determined according to the Articles of the Union, in the Courts of Justice in *Scotland*; and although no such thing were expressly stipulated by the Articles of Union, yet it is the universal received Maxim of Judicial Proceedings in all Countries, that *Actor, Sequitur Forum Rei*: If the Plaintiff will have his Right, he must go and sue for it where his Adversary lives. Mr. *Paterfon* was never to imagine, that the Directors and others concerned in the *African Company*, should be halled up to *London* to answer his imaginary Pretensions, nor that any thing would be decreed in his Favour till the Adverse Party were heard, and therefore it was that the Parliament put him in the regular way of suing for Justice, by directing him to lay his Case before the Barons of the Exchequer in *Scotland*, who being a Court of Justice in the Country where Mr. *Paterfon*'s pretended Debtors live, could without any great Charge or Trouble to the Subject, call the Directors of the Company before them, to hear what they had to say against Mr. *Paterfon*'s Claim, could order all the Books and Records of the Company to be brought in, they might from thence have a full and clear Information of the whole matter; and indeed it is absolutely necessary, in order to form a legal proof from the said Records, that the Original Books themselves be produced, because the Company being now dissolved, and all the Officers belonging to it discharged by Law, whatever Extracts may be made out of the Books, by the Person who was once Secretary to the Company (which are the only Proofs that Mr. *Paterfon* has offered to produce) are not to be looked upon as Authentick Copies, to be received as a Proof in a Court of Judicature, and are to be accounted only as private Extracts made by a private Person, who is no longer in a publick Capacity; neither is it by any means proper that the Records belonging to the Company should be left in the Hands of any private Person whatsoever, they ought to be lodg'd in the Court of Exchequer in *Scotland*, because the Debts that are due to the Company are vested in the Queen, to be applied to the same Ends and Uses for which the Equivalent is granted; and how can such Debts be ever recovered, unless the Books and Papers, by which the Debts are to be instructed, are taken out of private Hands, and Deposited in some publick Register?

In Obedience to the Order of Parliament, the Barons of the Exchequer in *Scotland* did Examine Judicially Mr. *Paterfon*'s Pretensions, and the Reasons offered by the Directors of the Company for not giving him a place in the List of their Creditors, and were fully
satisfyed

satisfyed to the Justice and Integrity of the Director's Proceedings. So Mr. *Paterfon* finding that the Report of the Judges was not like to be favourable to him, did not think fit to tarry till they should make their Report to the Queen, as the Act of Parliament directs, but applies himself anew to the House of Commons, praying them to take his Case into Consideration. It is to be hoped that since the Barons of the Exchequer in *Scotland* have taken full Cognizance of this Matter in a Judicial way, as being a matter of private Right and Property, and have heard both Parties, the House of Commons, before they do any thing further in it, will have the Report of the Barons laid before them.

If the Parliament is disposed to do any Act of Charity to Mr. *Paterfon*, there is no Body in *Scotland* that will oppose it, providing it be done in such a manner as may not prejudice the Right of any third Person. But for Mr. *Paterfon* to start a Claim on the *African* Company, which has no manner of Foundation, and which he himself never insisted upon 'till after the Parliament had appointed the Proprietors and Creditors of the Company to be paid out of the Money of the Equivalent, is thought to be a very unfair and disingenious Practice.

For him to trump up at this time of Day against the Company, a Contract which he pretends to have made with a few Persons at *London*, a Contract which was never owned or approved by the Company, and which he himself never pretended to insist on whilst the Company was in Being; and by vertue of this Contract to demand a Portion of the Capital-Stock of the Company, which he says eight or ten Merchants of *London* made over to him, and which the Act of Parliament by which the Company is Constituted, says expressly, that the whole Company united together could not convey to him, to demand at the Rate of two *per Cent.* for 600000*l.* when all the World knows that there never was above 400000*l.* Subscribed, and not much above 100000*l.* paid in: I say, for him to make so unreasonable a Demand without the least Foundation of Right or Title, and to think that either the People of *Scotland* would wink at such a gross Imposition upon them, or that the Justice of the Nation would overlook it, is to have a vast conceit of his own Cunning and Sagacity, and a very low Opinion of the Integrity and Penetration of others. And as there is no Foundation for Mr. *Paterfon's* Demand from the Company, by vertue of that pretended Contract with the *English* Nominees, so neither has he the least pretence to
claim.

claim any thing as a Debt for the Pains and Expences he was at for the Company's Service, since he himself owns in his Account Current with the Company, that he had received twenty Shillings a day for all the time that he was employed in the Company's Service in *Holland* and *Hamburgb*, and the two Gentlemen who were joined in Commission with him had no more; but should they find Mr. *Paterfon* were indulged a further Gratification, over and above his allowance from the Company, it is not to be doubted but they will come in with a fresh Demand upon the Monies of the Equivalent, for an extraordinary Gratification of their Services likewise.

And seeing Mr. *Paterfon* has no just Claim upon the *African* Company upon any Account whatsoever, it's certain he can have none upon the Equivalent, which is by Act of Parliament Establishing the Union appropriated to certain Uses therein specified, and cannot be diverted on any Pretence whatsoever. On the contrary, Mr. *Paterfon* being a Debtor to the *African* Company, instead of claiming any thing out of the Equivalent, is liable to be sued by the Commissioners for the Sums in which he stands indebted to the Company; all which Debts due to the Company are vested in Her Majesty, for the Uses to which the Equivalent was granted, and the Commissioners of the Equivalent are appointed and required to call for them, and to apply them to the said Ends and Uses: Had the said Mr. *Paterfon* paid in the 17000*l.* which he owes the Company, this would have gone a great way towards the Relief of several Officers, whose Labours and Fatigues in the Defence of their Country, during these late Wars, are still unrewarded, because their Debts come in among the publick Debts of the Nation, which are directed to be paid immediately after the Proprietors and Creditors of the *African* Company are satisfied; so that the whole Mony of the Equivalent being already appropriated by the Act of the Union, to certain particular Uses, and that particular Quota of it which the Parliament assigned for paying off the *African* Company, being entirely exhausted, and already disposed of to the Proprietors, and just Creditors of the Company, if the Parliament should be of Opinion to grant Mr. *Paterfon* any thing towards the Relief of his Necessities, it is humbly conceived that it would be necessary to allot him Payment of it out of some other Fund than that of the Equivalent, which is already settled and applied to other Uses.

Mr. Pa-

Mr. PATERSON's

OBSERVATIONS

UPON THE

Forgoeing Paper, and other pretended OBJECTIONS,

Against his

C L A I M.

THE Principal Allegations of this Paper are, by the Author, reduced to five Propositions or Heads, which, with some Remarks and Observations thereupon, are as follow, viz.

That the Nominees appointed by Act of Parliament to take Subscriptions, had no Power to dispose of any part of the Stock of the Company, or to make any Rules or Orders, that should be binding on the Members of the Company. Allegation I.

By the Act of the Parliament of Scotland, for Constituting the late *African and Indian Company* there, the Nominees or Patentees therein mentioned were Impowered "By Subscription or otherwise, as they should think fit, to raise a Joint Stock, or
G " Capital

“ Capital Fund of such Sum or Sums of Mony, and under and
 “ subject to such Rules, Conditions and Qualifications, as by them
 “ or the Major Part of them should be Limited or Appointed.

Though this Clause be thus particularly Expressed in that Act of Parliament, yet was it not Essentially necessary, since in all such Cases the Matter thereof is tacitly understood, or otherwise no Man could ever safely Engage in a Subscription, where the Original Agreement was supposed to be Precarious, or could be broke through.

The ten Nominees in *London* were very Cautious, and well advised in their Proceedings ; no step was by them made, till three Persons Deputed from the other ten Nominees in *Scotland* were arrived to their Assistance, and then considering how they were to venture their Estates to a Place, then very distant in Laws and Customs, as well as Situation, they were resolved to secure themselves by Compact as well as they could, and therefore Unanimously agreed to those Constitutions or Conditions, which they put at the Head of their Subscriptions, to be, and remain, as Fundamental Rules ; among which the Agreement with Mr. *Paterfon* (without whose Reputation and Interest they could not then pretend to get their Subscriptions) was one of the Articles.

The Principal of the other Articles were,

I. That the Joint Stock of the Company should consist of 600000 l.

II. That one fourth part thereof should be paid in on the Subscription, and the Remainder in such Parts and Proportions as they should afterwards appoint.

III. That in Case any Subscriber should neglect his further Payments, or become otherwise Indebted to the Company, the Sums already advanced should be liable to make Satisfaction.

IV. That the sole Government and Management of the Company should be in fifty Directors ; twenty five whereof were then Understood to represent the Interest in *London*, and the other twenty five in *Scotland*.

All this is particularly proved by Mr. *Roderick Mackenzie*, the late Company's Secretary, his Depositions, and Extracts out of the Company's Register Books, Copies whereof are herewith Printed.

That these were Understood to be Fundamental Rules of the Company, and actually executed as such, from its first Institution, til

till the Dissolution thereof by the Union, is sufficiently known, not only to eight or nine of the Nominees still alive, but likewise to Numbers of others, both in *England* and *Scotland*; and that this was never questioned till upon the Occasion of sharing the Equivalent Mony, after the Commencement of the Union.

That the Preamble to the Subscriptions taken in England, on which Alleg. II. Mr. Paterfon founds his Grant, if it be of any force at all, could only bind those who subscribed in England, and consequently could not be of any avail to Mr. Paterfon, seeing all the English Subscribers withdrew their Subscriptions, before ever the Company was formed.

The contrary of this second Allegation likewise plainly appears, *Observ. II.* by the same Depositions, and Extracts of the said Mr. Roderick Mackenzie; and it is notoriously known, That the Sums subscribed in *London*, and those in *Scotland*, were always understood and reputed to be Parts of the same Joint Stock, and subject to the same Rules and Conditions.

As to the Matter of the Relinquishing the Subscriptions in *England*, it was an Act of the Sovereign Authority there, in which Mr. Paterfon was not concerned, as being no ways obliged to insure that Company against the Accidents which might happen from the Interpositions of Princes, or States. But herein the Writer equally shews his Ignorance in the Publick Transactions, since it's sufficiently known that it was only the Misfortunes which happened to that Company, from the Misunderstandings of the two Nations about it, whilst they stood divided, that occasions them now to have so solemn and effectual a Satisfaction of their Losses, from the United Kingdom of *Great Britain*.

That the African Company in Scotland, after it was regularly Alleg. III. formed into a Society, never looked upon themselves to be any ways Indebted to Mr. Paterfon on Account of the pretended Grant made him by the Nominees assembled at London; nor did they ever give him any Credit in their Books on that Score.

The third Allegation is no more proved than the rest, and tho' *Observ. III.* it were, could amount to nothing, since it only imports, That if the Author owed a Sum of Mony upon Bond, he would not think himself obliged to pay it, 'till it were also entered in his Books.

That Mr. Paterfon himself never insisted on any such Grant in the Alleg. IV. applications which he made to the Company, for a Reward of the services which he pretended to have rendered them, but left it wholly

to their own Generosity to recompence him in what Manner they should think fit.

Observ.
IV.

Admitting the Petitioner had some time or other been inclinable to Compound his Claim during the Space of Eight or Nine Years before the Union, when great Sums of the Monies paid in by the other Proprietors were sold for a Tenth, Twelfth, nay some for a Twentieth Part of the Sums actually advanced, and that during all that time the Company made no manner of Satisfaction to Mr. Paterfon; there is now no Reason he should be abridged of his Due, since he has the Faith of the Treaty equally with the rest of the Persons concerned in that Company, who have been satisfy'd out of the ready Mony, part of the Equivalent.

Alleg.
V.

That Mr. Paterfon, instead of being a Creditor to the African Company, as he pretends, appears to be indebted to them in a Sum exceeding 17000 l. and consequently instead of claiming any thing out of the Equivalent, ought to be called upon by the Commissioners of the E. equivalent, for the Sum which he owes to the said Company.

Observ.
V.

The Falshood of this fifth Allegation manifestly appears by Mr. Paterfon's Account Current with the Company, as stated in their Books, and Extracted and sworn unto before the Judges of the Court of Exchequer at *Edinburgh*, by *James Dunlop* and *John Symmer*, who were the Company's Accomptants, from its Commencement to the Dissolution thereof by the Union; a Copy whereof is also herewith Printed; whereby it appears, That of several Sums amounting to 25526 l. 8 s. 5 $\frac{1}{2}$ d. in all, receiv'd by the Petitioner of the Company, the whole hath been issued to the Company's Order and Use, excepting only the Sum of 435 l. 15 s. 1 $\frac{1}{2}$ d. which still remains in his Hands; a Copy of which Account Currant is likewise herewith Printed.

The Enlargements on these five Propositions or Allegations, are such a Medly of supposed Facts and Opinions, as makes it not easie to guess the Meaning, as

I. That Mr. Paterfon was only 253 Days in the Company's Service, for which he owns himself to be paid at the rate of 20 s. *per Diem*, which the Author thinks a sufficient Satisfaction for all his Expences and Losses on that Company's Account.

II. That by the Act for Constituting that Company, the Successors in the Management thereof were fully impowered to dis-
pence

pence with, or annull the Contracts of their Predecessors in the Direction, without a *Salvo Jure*.

III. That though by the Treaty of Union, the Proprietors of the *African* and *Indian* Company of *Scotland* were to be paid their whole Principal, and five *per Cent.* Interest; yet that the Author and his Friends might limit those Payments to what Sum they pleas'd.

IV. That those who have, or are to receive the Equivalent Mony, are more proper Judges in the Distribution thereof, than those who gave it.

V. That although the Author be greatly griev'd that Mr. *Pater-son* should presume to keep this his Contract with the late Company so long a Secret, and to come out with it *at this time of Day*; yet he is pleased to promise not be angry with the Parliament of *Great Britain*, if they should allow the Petitioner something out of Charity; and such like.

After this and much more of the like noise, it hath been further pretended, that though it be true, that the Company had thus contracted with the Petitioner, yet that the same is now of no Force, or Effect, as being by him Renounc'd and Releas'd in the Form, and Manner following, *viz.*

“ WHEREAS by the Preamble to the Subscription of the
“ Company of *Scotland*, Trading to *Africa* and the *Indies*, I *Wil-*
“ *liam Pater-son* of the Parish of *St. Giles's in the Fields* in the Coun-
“ ty of *Middlesex*, Esq; my Heirs, Excecutors, Administrators
“ and Assigns, were to have and receive two *per Cent.* of the
“ Sum of 600000 *l.* to be subscribed, and three *per Cent.* of the
“ Profits of the said Fund for One and twenty Years, or two *per*
“ *Cent.* more of the Sum subscribed, some time in five Years in
“ lieu thereof: Now know ye by these Presents, that I the said
“ *William Pater-son*, for divers good Causes, and Considerations me
“ hereunto moving, do for me, my Heirs, Excecutors, Admini-
“ strators and Assigns, Remise, Release, Remit, Discharge,
“ and Quit Claim unto the said Company, and all and every the
“ Subscribers thereunto, their Heirs, Executors, and Administra-
“ tors, and Assignes, all and every part of the said two *per Cent.*
“ of the Fund, and three *per Cent.* of the Profits mentioned in the
“ said Preamble of Subscription. In Witness whereof, I have
“ here-

" hereunto set my Hand and Seal, this 29th Day of *November*,
" 1695.

" Seal'd and Delivered, the Paper

Sic Sub.

" being first Stampt according

" to Act of Parliament,

WILLIAM PATERSON.

" in Presence of,

Sic Sub.

This is a true Copy,

Henry Ayle,

Joseph Boys,

Rod. Mackenzie.

ROB. MACENZIE.

In Reply to this, the original Release, whereof the above is only a Copy, as in the Journals of the House of Commons, of the 21st *January*, 1695. never was, or ought to be used as a Pretext against, but rather as a special Corroboration of the Petitioner's Claim, since it was only given in Trust on the following occasion, viz.

Soon after compleating the Subscriptions in *London* the Parliament met, about which time the Clamours were so great against this Company and the Proceedings thereof, that Ruin was threatened to those who were concern'd; and among other Insinuations, it was confidently pretended, That the two per Cent. Premium was already receiv'd, and divided amongst several great Men, who procur'd the Act of Parliament, for constituting the Company.

Tho' those concern'd well knew that all this was utterly False and Groundless, yet considering the impending Danger, they intreated, and prevail'd with the Petitioner, on the 29th of *November* 1695, being the very last Day of their meeting in *London*, to execute this Release, with Promise, it should be only in Trust, and never us'd against him, as in effect it never hath, whatever use some Persons have, or may pretend to make of Copies thereof.

During this Dependence of the Company's Affairs in Parliament, the Petitioner, upon Promise not only of the Consideration stipulated, but likewise of a suitable Recompence for all his further Losses, and Sufferings had, or to be had, on that Company's Account, was prevail'd upon to leave his Effects, and Business in *London*, then very Considerable, and to go *Scotland*, and there wholly to engage in that Service, wherein he hath ever since continued to his insufferable Loss; and Prejudice; for all which

which the Petitioner hath never yet had Satisfaction, which is the ground of his present Claim, compris'd in the following Estimate, viz.

The African and Indian Company of Scotland.

		Debtor.	Creditor.
1695.	To a Premium of 2	l.	
Nov. 6.	per Cent. on the Com-	12000	
	pany's Stock of 600000 l.		
1711.	The Interest of		
Dec. 25.	12000 l. from 6. Nov.		
	1695. to Christmas	9682	
	1711. at 5 per Cent. per		
	Ann. as allowed by		
	the 15th Article of the		
	Treaty of Union.		
	To his Proportion		
	of 3 per Cent. of the		
	Interest Paid on the	2160	
	Capital Stock of the		
	said Company, by ver-		
	tue of the Treaty of		
	Union, being about		
	72000 l.		
	By his Loss in break-		
	ing up of the Orphan's		
	Fund, occasion'd by		
	his Absence, in the Com-		
	pany's Service, where-		
	by, besides other Dis-		
	advantages, he lost the		
	5 per Cent. of the Pro-		
	fits of that then hope-	16000	
	ful Design, settled up-		
	on him for 21 Years,		
	which was then usual-		
	ly judged might a-		
	mount to 15 or		
	1600 l. per Annum, at		
	least, but valuing it on-		
	ly at 1000 l. per Ann. for		
	16 Years is		
	The Expences of		
	himself and Family for		
	16 Years, Communibus	8000	
	Annis, at 500 l. per		
	Annum, is		
		47842	
1708.	By Ballance		
July 2.	of my Accompt		
	as stated in the		
	Company's Books		
	of Accompt, and		
	proved before the		l. s. d.
	Barons of Ex-		
	chequer in Scot-	435	15 1 ¹ / ₂
	land, by Mr. Dun-		
	lop, and Mr. Sym-		
	mer, the Com-		
	pany's Accom-		
	ptants,		
1711.	By Interest of		
Dec. 25.	435 l. from the		
	7. Nov. 1701. to	220	17 2
	Christmas, 1711.		
	at 5 per Cent. per		
	Annum, is		
	By Ballance	47185	7 9 ¹ / ₂
	there remains due		

For the Proof whereof, the Petitioner particularly refers to the abovementioned Extracts out of the Company's Books, with the Examinations taken in Parliament at the time, when he with several of his Friends had the Misfortune to be Impeach'd on that Company's Accompt, as likewise to the Testimony of several Witnesses of undoubted Reputation still living.

From the Commencement of the Union, being now near five Years, the Petitioner hath constantly endeavoured to obtain his Right but without Effect, which obliges him now to apply to the Parliament for Relief.

To

To the Honourable the
Knights, Citizens, and Burgeſſes,
 AND THE
Commissioners for Shires and Burroughs,
 In PARLIAMENT Aſſembled,

The Humble Petition of WILLIAM PATERSON, Eſq;

SHEWETH,

THAT your Petitioner hath been at great Expence and Pains, and ſuſtained very conſiderable Loſſes on Account, and at the Inſtance of the *African and Indian Company of Scotland.*

That by the 15th Article of the Treaty of UNION, it was ſtipulated and agreed, that next after the neceſſary Allowance, for the Loſſes private Perſons might ſuſtain by reducing the Coin of *Scotland*, to the Standard and Value of that of *England*, the Capital Stock and Fund of the ſaid Company, together with Intereſt after the Rate of 5 per Cent. per Annum, from the reſpective Times of Payment thereof, ſhould be paid out of the Equivalent; and that if the Stock and Intereſt ſhould not be paid in 12 Months after the Commencement of the *Union*, the Company might, from thence forward, trade, or give Liſenſe to trade, until the ſaid whole Capital Stock and Intereſt ſhould be paid.

N. B. By the Articles of Union, it is not left or referr'd to the Parliament of either Kingdom, nor even to the Parliament of Great-Britain, to diſſolve the Company, until the whole Sums thereby made

payable to them, be diſcharg'd.

H

That

That altho' a considerable Part of your Petitioner's Demands on the said Company were not adjusted, as consisting partly in a Share of the Profits of their Stock, and of subsequent Expences and Losses since their first Contracts and Agreements with him; yet the great Inclination your Petitioner had to use his utmost Endeavours for promoting the UNION, and his entire Confidence in the publick Faith and Justice, in Case of the Success thereof, induced him to prefer the Foot of the general Interest, to any particular Reservations or Terms for himself, at the Time of the Treaty.

But your Petitioner, to his great Detriment, hath been hitherto obstructed and postponed in his Claim, by, or at least under Pretence of certain Proceedings of the late Parliament of *Scotland*, since the Conclusion of the said Treaty; whereby, among other things, the Payment of the said Interest is restricted to the first

N. B. By the Articles of Union, it is not left or referr'd to the Parliament of either Kingdom, to adjust, much less to limit or restrict, the Sums thereby made payable to the Parties concern'd in the

Day of *May* last past; and the whole Sum of Principal and Interest to be paid to the Creditors and Proprietors of the Joint-Stock of the said Company, limited to 232884 *l. 5 s. 2 d.* only, and by which the Directors of the said Company, or any five of them, with their Secretary, are ordered to state and deliver in, to the Lord-Clerk, Register, the whole Accompts of the Company, (but so as not to exceed the said Sum) before the first Day of *May* last upon severe Penalties.

African and Indian Company; tho' doubtless, it is to the Parliament of Great Britain, as the last Resort.

That upon passing the Commission of Equivalent, and transmitting the 398085 *l. 10 s.* to *Edinburgh*, your Petitioner repaired thither, to receive his Claim, not doubting but the Directors of the said Company either had, or at least, upon his Application, would readily state and certify such part of your Petitioner's Accompt and Claim, as was liquidated and clear, and fully and fairly represent the Parts thereof, which are not yet adjusted, to her Majesty's Commissioners for the Equivalent, in order to its being settled and determin'd.

But to your Petitioner's great Surprize and Disappointment, he there found, that without any previous Notice, or reasonable Allowance of time for Parties absent, or under other Incapacities to bring in their Claims, some few of the said Directors had, in the Absence of your Petitioner, and without including his Accompt and Claim,

not

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not only pretended to make up and certify the Company's general Accounts, but absolutely to limit and determine the same.

That after having, for several Weeks together, instantly requir'd the said Directors to do him this Justice, he at last understood that her Majesty's Commissioners for the Equivalent, without giving any Time or Notice for your Petitioner or others to bring in their Claims or Demands on the said Company, had already begun to pay back and distribute the said Joint-Stock to the respective Directors, and other Proprietors thereof.

That your Petitioner did thereupon make his Application to the Commissioners of the Equivalent for Relief, but the said Commissioners were pleas'd to wave the determining and satisfying of this his Claim.

Those Obstructions and Hardships being such as indispensibly oblige your Petitioner to have immediate Recourse to the Compassion and Justice of this Honourable House ;

Your Petitioner therefore humbly prays this Honourable House to take this his Case and Claim into Consideration, and to give him such Relief, as you in your great Wisdom shall judge fit.

And your Petitioner shall ever pray, &c.

H 2

Upon

Upon the *PETITION* of William
Paterfon, *Esq*;

THE Committee having taken into Consideration the Matters contained in the said Petition,

It appeared, that the Petitioner hath been at very great Expence and Pains, and sustained very considerable Losses on Account, and at the Instance of the *African* and *Indian* Company of *Scotland*.

That on the 13th of *August*, 1707, the Petitioner delivered a Representation to the Directors of the *African* and *Indian* Company of *Scotland*, to the Effect following:

That by the Conditions of the Subscriptions of 300000 *l.* taken at *London*, the 6th of *November*, 1695. as part of the then intended Sum of 600000 *l.* Sterling, for the Capital Stock of that Company, It was agreed, that in regard the Petitioner had been at great Pains and Expence in making considerable Discoveries of Trade, and Improvements in and to both *Indies*; and likewise in procuring needful Powers and Privileges for a Company of Commerce from several Sovereign Princes and States, That therefore the Petitioner should have 2 *per Cent.* of the Mony to be subscribed into the said Capital Fund, as also 3 *per Cent.* of the Produce of the said Fund for twenty one Years, but redeemable for 2 *per Cent.* more of the said Fund at any time in five Years.

That the said Subscription, by reason of the great Opposition it met with, being broken and relinquished, the Petitioner was nevertheless, at the earnest Sollicitations and Request of those principally concerned in *Scotland*, prevailed upon to take a Journey from *London* into *Scotland* for the Company's Service.

That upon the 6th of *October*, 1696. the Court of Directors of the said Company taking the Petitioner's Case into Consideration, came to this following Resolution, *viz.*

This Court considering the great Expence that Mr. *William Paterfon*, one of the Directors of the said Company, hath been at for several Years past, in making valuable Discoveries of Commerce to both *Indies*, and he having delivered in several curious Manuscript-Books, Maps, Journals, and other Papers of Commerce relating thereto, hence-

henceforth to be appropriated to the Company's Use, and having further evidenced his Affection to his Native Country, and this Company, by relinquishing *England*, and any profitable Establishment he had, or may at present have in that Kingdom, to his evident Damage and Loss: Therefore the said Court of Directors do hereby allow the said *William Paterson* to transfer and dispose of the Sum of 15000 *l.* Sterling, of the Subscriptions now vested in this Court of Directors (that is to say) of the 85000 *l.* of such *English* Subscriptions as are not yet disposed of by this Court, and to take and apply to his own proper Use the first Quarter-part thereof, extending to the Sum of 3750 *l.* Sterling, together also with the like further Sum of 3750 *l.* Sterling, being the first Quarter-part of the Sum subscribed by him the said *William Paterson*, *James Smyth*, *Daniel Lodge*, *James Campbell*, and *Joseph Cohen d'Azevedo*, Merchants in *London*, and amounting in the whole to the Sum of 7500 *l.* Sterling.

And further for his Merit in contriving the principal Designs, and Constancy in promoting the Service of this Company, the said Court of Directors have resolved to take into Consideration what suitable Gratifications they will appoint out of the subsequent Profits of their Trade, and proportionate the same to the Success thereof.

That altho' the said Sum of 7500 *l.* was much less than the Petitioner had Reason to expect, as being considerably below what he had expended in the Designs, which contributed to the forming of the Company; yet in Confidence that the Directors would in their subsequent Resolutions effectually supply what was wanting in this, as well in a reasonable Share of the Profits of the Capital Stock, as by a competent Salary or yearly allowance for the time he should think fit to continue in the Company's Service: He, the said Petitioner, at the Request, and by Order of the Court of Directors, undertook a Voyage to *Holland* and *Hamburg*, upon the Company's Business, and hath since that time through all manner of Difficulties attended their Service.

It appeared to the Committee, that upon passing the Commission of Equivalent, the Petitioner repaired to *Scotland* to receive his Claim: But some few of the said Directors had in the Absence of the Petitioner, and without including his Accompt and Claim, made up and certified the Company's general Accompt.

That

That after having for several Weeks instantly requir'd the Directors of the said Company to certifie his Claim, he at last found, that the Commissioners of the Equivalent had begun to pay back and distribute the said Joint-Stock to the respective Directors and other Proprietors thereof.

It likewise appeared, that the Petitioner did make his Application to the Commissioners of the Equivalent for Relief, but the said Commissioners were pleased to wave the determining and satisfying his Claim.

That upon the 1st of *September*, 1707. the Petitioner delivered in to the Commissioners for the Equivalent, a Representation of his Case, setting forth his Claim and his Services, whereupon the said Commissioners made the following Order.

EDINBURGH, 4 *September*, 1707.

“ A Paper being presented to the Board by *William Paterson*, Esq;
“ the same was read, and the Board were of Opinion, that
“ *Mr. Rod. Mackenzie*, Secretary to the *African* Company,
“ should lay before the Board an Abstract out of the Books,
“ of what relates to the Affair therein represented; and re-
“ commended to *John Jameson*, to acquaint *Mr. Mackenzie*
“ thereof.

That on the 3d of *October*, 1707. the Petitioner presented a second Representation to the Commissioners for the Equivalent, setting forth his Claim to the Effect following.

That the Petitioner was at first engaged in the Service of the said Company, upon their Promises of paying him 12000*l.* in ready Money, and a Grant of 3 *per Cent.* of the Profits of their Stock for twenty one Years, or 12000*l.* more.

But that as the Subscriptions at *London* were relinquished, by reason of the great Opposition against the Company, the Petitioner was upon the Promise of 30000*l.* Sterling in Mony, or so much of Value in their Stock, induced to embark wholly with them, and risque all in their Service.

That nevertheless the Directors of the said Company, by their Act of the 6th of *October*, 1696. did only grant one Fourth Part thereof, or 7500*l.* Sterling, as paid into the Stock, tho' with very onerous Clauses and Promises from some of the Concerned, that the Petitioner should have entire Satisfaction, pretending their Intention in this was
only

only to engage him the more firmly in the Company's Interest, by a Dependance on them for a suitable Recompence.

That his Endeavours were employed in *England* for the Company's Interest.

That for the Company's Service he embarked for *Darien*, and underwent great Fatigues, when his Domestick Affairs were abandoned, to his unspeakable Detriment.

That since his Return from that troublesome Voyage, he hath been concern'd for their Losses as anxiously as his own.

That seeing the said Company had not on their Part perform'd their Contracts, nor made Satisfaction for his Losses and Sufferings; and that the Effects, Debts, and Obligations of the said Company are, by Virtue of the Treaty of UNION, transferred to the Fund of the Equivalent.

After having intimated his formal Demand on the said Fund of the Equivalent, he left it to the Commissioners in the first Instance, and humbly submitted it to the wise Decision of her Majesty, who is competent Judge in the last Resort, Whether the first or second Compact, or the third Proposal, with an equitable Regard to his Services, Expences, Sufferings, and subsequent Losses and Damages, ought to be the Foundation and Measure of his Claim.

Upon which Representation the Commissioners for the Equivalent were pleas'd to make a Report in these Words:

EDINBURGH, October 3. 1707.

“ The Commission having consider'd the within written Representation, they remitted to such of their Number, as are
“ to go to *London*, to recommend the said *William Paterson* in
“ the most effectual Manner, that he may have a suitable Recompence for his Losses within represented.

Upon the whole Matter, the Committee came to these Resolutions following, *viz.*

Resolved, That it is the Opinion of this Committee, that the Petitioner, Mr. *William Paterson*, hath fully prov'd the Allegations contain'd in his Petition.

Resolved, That the Petitioner, Mr. *William Paterson*, ought to be satisfy'd, and paid all the several Sums owing to him by the *African* and *Indian* Company in *Scotland*, pursuant to the several Agreements made

made between him and the said Company, in the Terms of the Treaty of UNION, so far as the same shall be proved before the Commissioners that shall be appointed for stating the Publick Debts; and likewise, That such a Recompence be given to him as may be suitable to his Services, Expences, Losses and publick Cares.

The following Report from the Committee of the Honourable House of Commons this Session, sufficiently signifies what further Steps have been taken herein since those first Advances were made.

UPON

UPON THE
PETITION
OF

WILLIAM PATERSON, Esq;

THE Committee having taken into Consideration the Matters of the said Petition, wherein the Petitioner alledges, That notwithstanding the special Direction of an Act of the first Parliament of *Great Britain*, Entituled, *An Act for the further Directing the Payment of the Equivalent Mony*, he hath not hitherto been able to obtain Satisfaction of his Claim on the *African and Indian Company of Scotland* out of the said Equivalent Mony; and that the Sums of ready Mony, out of which he ought to have been paid, are now for the most part otherwise disposed of.

That by an Act of the Parliament of *Scotland*, Entituled, *Act for a Company Trading to Africa and the Indies*, there was full Power given to the Commissioners named therein, or the major part of them, to Erect and Establish that Company, as appears in the Act.

That by the fifteenth Article of the Treaty of Union, ' It is agreed
' That in the first Place, out of the aforesaid Sum, what Considera-
' tion shall be found necessary to be had, for any Losses which pri-
' vate Persons may sustain by reducing the Coin of *Scotland* to the
' Standard and Value of the Coin of *England*, may be made good :
' In the next place, the Capital Stock, or Fund of the *African and*
' *Indian Company of Scotland* advanced, together with the Interest
' for the said Capital Stock after the rate of five per Cent. per Ann.
' from the respective times of the Payment thereof, shall be Paid;
' upon Payment of which Capital-Stock and Interest, it is agreed,
1 ' That

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‘ That the said Company be dissolved, and cease; and also that from the
‘ time of passing the Act of Parliament in *England* for raising the said
‘ Sum of 398085*l.* 10*s.* the said Company shall neither Trade, nor
‘ Grant Licence to Trade; providing, that if the said Stock, and
‘ Interest, shall not be Paid in twelve Months after the commence-
‘ ment of the Union, that then the said Company may from thence-
‘ forward Trade, or give Licence to Trade, until the said whole Ca-
‘ pital-Stock, and Interest shall be Paid.

That after passing the Treaty of Union by the Parliament of both Kingdoms, the Company gave in a State of their Demand, amounting to 260000*l.* but that they have been since abridg’d of their Quota about 30000*l.*

That by the said Act of Parliament for further directing the Payment of the Equivalent Mony, It is Enacted, in the following words, *viz.*

‘ And whereas it appears that the Accounts of the Stock advanced,
‘ and Debts due by the *African* and *Indian* Company of *Scotland* have
‘ been made up without regard to the Claim of *William Paterson*, Esq;
‘ for his Expences, Pains, and Losses, on Account and at the Instance
‘ of the said Company, Be it Enacted, by the Authority aforesaid,
‘ that no Omission or Neglect of the Directors of the said Company,
‘ or of others concerned in Stating, Adjusting, or Certifying the
‘ Claims or Demands upon the Equivalent, shall prejudice the Right,
‘ Interest, Claim or Demand of the said *William Paterson*, in and
‘ upon the said Company, but that the several Sums due to him by
‘ the said Company shall be certified, and thereupon fully satisfied
‘ and paid in the Terms of the Treaty of Union, as the same shall
‘ be proved before the aforesaid Judges of the Court of Exchequer
‘ in *Scotland*.

‘ And in regard that since the making of the first Contracts and
‘ Agreements, the said *William Paterson* hath been at further Expences,
‘ and sustained other Losses and Damages, for and on account of the said Company; Be it therefore further Enacted, that
‘ the said Judges of the Court of Exchequer in *Scotland*, shall, and
‘ are hereby required to take an account of those his Expences and
‘ Losses, and likewise of his good Services, and publick Cares,
‘ and make a full and fair Representation thereof to her Majesty.

‘ And

‘ And to the end the more full and free Enquiries may be made, and
‘ Information had of the Premises, the said Judges of the Court of
‘ Exchequer in *Scotland* shall, and may from time to time direct their
‘ Commission or Commissions, to any Commissioner or Commissioners
‘ within this Kingdom of *Great Britain*, or Dominions and Territo-
‘ ries thereunto belonging, for taking the requisite Examinations, or
‘ Informations to the purposes aforesaid, and for reporting the same to
‘ the said Judges of the Court of Exchequer in *Scotland*.

That pursuant to an Order of this Committee of the 7th of *March*,
the Remembrancer of this Court of Exchequer in *Scotland*, did lay
before them a Certificate, or Account of the Proceedings of the said
Judges on the Petitioner's Claim, which is hereunto annexed.

That by the several Extracts, Papers, and Accounts laid before the
Court of Exchequer in *Scotland*, and since deliver'd to the Committee,
which were Read, and Proved, and are hereunto annex'd, being
Number'd from 3 to 7, and likewise by the Evidence of Mr. *Walter*
Stuart, Mr. *James Campbel*, and Mr. *Roderick Mackenzie*, who were
all examined by the said Committee, it appears.

That Principally by the Petitioner's Countenance and Influence,
the Sum of 300000 *l.* was first, in the beginning of *November 1695*,
subscribed to the Capital Stock of the *African and Indian Company* of
Scotland at *London*, and the Sum of 300000 *l.* more was soon after
subscribed in *Scotland*, and one fourth Part of the said several Sums,
(at the time of Subscription) actually Paid to the Company's Order
and Use, on certain Conditions and Limitations, and particularly
that the Petitioner should have two *per Cent. Premium*, out of the first
Payment of the Sums to be subscribed.

That the Sums subscribed in *London*, and those in *Scotland*, were al-
ways understood and reputed to be Parts of the same Joint-Stock,
and subject to the same Rules and Conditions.

That the Petitioner was prevailed upon, at the Instance and Per-
suasion of the said Company, to leave his Effects and Business in *Lon-*
don (then very Considerable) to go into *Scotland*, where, by his Coun-
tenance and Influence, he likewise very much promoted and supported
their Affairs.

That after this he was by the said Company further prevailed upon
to go to *Holland* and *Hamburg*, to promote the Transferring of such *En-*
glish Subscriptions, as were relinquished.

That the Petitioner was still further prevailed upon to embark in the said Company's Expedition to *Darien*, where, by his Conduct and Credit, he much contributed to the Support of that Colony whilst it subsisted.

That at his Return he gave a Particular Journal or Report of his Negotiations or Transactions there.

That the Petitioner hath often express'd his Concern for the Losses and Misfortunes of the said Company, and Inclination to do his utmost towards the having of them Repaired.

That by the Extract of the Petitioner's Account Current with the Company, upon Oath laid before the said Barons of the Court of Exchequer, by *James Dunlop* and *John Symmer* the late Company's Accountants, it doth not appear that the Petitioner hath received the said two *per Cent.* premium, or had Satisfaction of the said Company for his subsequent Losses and Expences, only that the Sum of 435 *l.* 15 *s.* 1 $\frac{1}{2}$ *d.* Remains in his Hands.

And by the Extracts taken out of the Company's Register Books, it appears, that from the beforementioned Premium of two *per Cent.* on the said Subscription of 600000 *l.* in the Joint-Stock of the said Company, the Sum of 12000 Principal Mony is due to the Petitioner, the Interest whereof at five *per Cent. per Annum*, from the 6th of *November* 1695, the time of the Company's Contract with him, to the Fifth of *November* last being fifteen Years, comes to 9000 *l.* more, in all amounting to the Sum of 21000 *l.* from which deducting the abovesaid Sum of 435 *l.* 15 *s.* 1 $\frac{1}{2}$ *d.* with the Interest thereof for nine Years, there Remains still due to the Petitioner a Balance of 20368 *l.* 3 *s.*

That it appeared to the Committee, that the Books, Records, and Registers, of the said *African* and *Indian* Company, or Authentick Copies or Extracts of the same, were declared to be good and sufficient Evidence in all Courts of Judicature, or elsewhere, by which and no other Certificates, the several Creditors have received their respective Claims.

The Petitioner produced to the Committee a Report, and Extracts taken out of the Register Books of the *African* and *Indian* Company in *Scotland*, upon Oath before the Judges of the Court of Exchequer in *Scotland*, signed by *Baron Scrope*; which were Read, and are hereto annexed, Marked (A)

The

The Petitioner likewise produced the said Report and Extract or of the Books of Accompts of the said Company, sworn to, by *James Dunlop* and *John Symmer*, Accomprants to the said late Company, and signed by Baron *Maitland*, both whose Hands were proved to the Committee by Mr. *Mercer* and Mr. *Mackenzie*, also read and are hereunto annexed, Marked (B)

Also the Petitioner produced an Extract of the Interrogatories and Depositions of Mr. *Roderick Mackenzie*, which were likewise Read, and are hereunto annexed, Marked (C)

And also several Papers relating to Mr. *Paterfon's* Claim, being Extracts of the Books of the Company and Authentick Copies, Marked (D)

And likewise the Petitioner delivered to the Committee an Account Currant between him and the said Company, which is also hereto annex'd, Marked (E)

A Member of the House gave in a Paper to the Committee, Entituled, *Mr. Paterfon's Claim upon the Equivalent of Scotland Examined and Answered*, but is not signed nor dated.

The Petitioner gave in also a Paper in Reply to the said Paper, signed by him, and bears date the 11th of *April*, both which are hereunto annexed.

THE

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THE
RETURN
OF THE
REMEMBRANCER
OF THE
Court of Exchequer in *Scotland*,
TO THE
Order of the Committee of the 7th of March.

IN Obedience to the Order of the Honourable Committee of Parliament, to whom the Petition of *William Paterson*, Esq; is referred, I do hereby humbly certify, that the said Mr. *Paterson*, in the Months of *June*, *July* and *August* 1708, gave in several Petitions to the Barons of this Honourable Court, setting forth the Grounds and Substance of his Demands, Copies of all which Petitions are hereunto annexed.

And Mr. *Paterson*, representing at the same time, That it was necessary before the hearing of his Claims that Mr. *Roderick Mackenzie*, Secretary to the late *African* and *Indian* Company, should lay before their Lordships Extracts of whatever was inserted in the said Company's

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Company's Books relating thereto, and that *James Dunlop*, and *John Symmer*, late Accomptants to the said Company, should likewise lay before them a State of his Accompt of Debt and Credit, as contained in the Cash Books of the said Company; their Lordships, by their Orders of the 18th of *June* and 21st of *July*, in the said Year 1708, did appoint the said Messieurs *Mackenzie*, *Dunlop*, and *Symmer*, to lay such Extracts and Accompts before them; which they having accordingly done, their Lordships upon the further Application of the said Mr. *Paterfon*, proceeded to the enquiring into, and examining the said Affair; and after hearing the said Mr. *Paterfon* by himself and Council several times, as likewise some of the Directors of the said late *African* and *Indian* Company, and Consideration had of all Papers and Accompts laid before them relating thereto, their Lordships in *Candlemas* Term following declared their Opinion to be, that they could not report and certify any Sum certain to be due to the said Mr. *Paterfon*, according to the Allegations and Prayers of his said Petitions, but offered to make a Representation of the Merits of his Services, according to the Proofs which he should make thereof before them, which he declining to go into, nothing further was done therein.

But Mr. *Paterfon* some short time after by his Agent desiring a sight of such Extracts, Papers, and Accompts as were produced and laid before the Court, in Relation to the said Affair, the Reports of the said *Mackenzie*, *Dunlop*, and *Symmer*, and all other Papers relating thereto, were delivered to Mr. *George Drummond*, his Agent, which he never thought fit to Return, but are now (as I am informed) lying before this Honourable Committee; and in *Martinmas* Term last, the said Mr. *Paterfon* exhibited a Bill in this Court against the Commissioners of the Equivalent, her Majesty's Advocate, and the Lord Clerk Register, a true Copy whereof is hereunto subjoined, to which her Majesty's Advocate has put in an Answer, a Copy whereof is hereunto likewise annexed; whereupon Mr. *Paterfon* by his Council the 29th of *November* last did move this Court, that in regard the aforesaid Mr. *Mackenzie* was a very Material Witness for him, and designed shortly to go beyond Sea, that therefore he might have leave to Examine him upon Interrogatories in Relation to the said matter, tho' all Parties concerned had not Answered; which upon the Consent of her Majesty's Advocate was ordered accordingly, as appears by the annexed Copy of the said Order, pursuant to which, as I am informed, the said Mr. *Mackenzie* was Examined by the Examiner of this Court, and Mr. *Paterfon* has lately by Order got a Copy thereof.

This.

This is the only Account I am capable of laying before this Honourable Committee, in Relation to the Steps taken with Respect to Mr. Paterfon's Claims, from any Paper, or Records in this Court, which is with all due Submission subscribed by

JOHN TARVER.

April 2. 1711.

Rememb.

Whatever seems to be otherwise hinted in the above Report, yet certainly there never was any Judicial hearing of the Directors, nor did they, or any of them, ever by Word or Writing, produce any Proofs against the Petitioner's Claim, nor was there ever any Entry made of the Proceedings, by which the Petitioner might have had Recourse to the House of Lords for Relief.
